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ABSTRACT

Presenting reports, statements, letters, and additional information, these hearings of the Menominee Restoration Act (HR 7421) deal with restoration of Federal services to the Menominee tribe via repeal of the 83d Congress' (1953) termination policy. Testimony includes statements from representatives of the: Federal Government, National Congress of American Indians; Menominee Tribe; Menominee County Highway Department, Drugs and Alcoholism Program, Housing Authority, and Council of Chiefs; Wisconsin Schools; and the like. Some of the additional information presented includes: (1) an employment analysis for December 1967-June 1973; (2) Lake Moshawquit Property Owners Association agreements; (3) Native American Rights Fund's Memorandum re Restoration Act; (4) Menominee County Community Action Program's Impact Study (table); (5) Menominee Enterprises' financial analysis-ratios for March 1973 and summary of forestry and mill operations for 1961-72; (6) profile chart for averages on the Iowa Tests for basic skills; (7) Report 272 of the 87th Congress on lessening the impact of Federal services termination; (8) Bureau of Indian Affairs' report on termination (1965); (9) tables on: population and economic characteristics of tribes; county population and Wisconsin per capita taxable income (1969); and travel distances from community to service center; (10) Wisconsin Assembly bills, amendments, and fiscal notes. (JC)

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MENOMINEE RESTORATION ACT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 7421

TO REPEAL THE ACT TERMINATING FEDERAL SUPERVISION OVER THE PROPERTY AND MEMBERS OF THE MENOMINEE TRIBE OF WISCONSIN AS A FEDERALLY RECOGNIZED, SOVEREIGN INDIAN TRIBE; AND TO RESTORE TO THE MENOMINEE TRIBE OF WISCONSIN THOSE FEDERAL SERVICES FURNISHED TO AMERICAN INDIANS BECAUSE OF THEIR STATUS AS AMERICAN INDIANS; AND FOR OTHER PURPOSES

HEARINGS HELD IN
KESHENA, WISCONSIN, MAY 25 AND 26, 1973
WASHINGTON, D.C., JUNE 28, 1973

Serial No. 93-20

Printed for the use of the
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CONTENTS

Hearings held—
  May 25, 1973: Page
    Morning session 1
    Afternoon session 56
  May 26, 1973:
    Morning session 121
    Afternoon session 201
  June 28, 1973:
    Morning session 241
    Afternoon session 293
Text of H.R. 7421 3
Report of the Department of the Interior 241
Report of the Department of Health, Education, and Welfare 247
Statement:
  Bodoh, Rita 69
  Chilsen, Hon. Walter John, member of the State Senate, State of Wisconsin 24
  Daly, Shirley, Robert Deer, Ted Boyd, and James Heinz 83
  Deer, Ada E., chairperson, Menominee Common Stock and Voting Trust 31, 293
  Deloria, Vine, Jr., consultant, National Congress of American Indians 313
  Derwinski, Hon. Edward J., a Representative in Congress from the State of Illinois 273
  Dickey, Gordon, member, Menominee Tribe 213
  Dodge, Carol, Delores Boyd, and Joan Fish 75
  Driving Hawk, Edward, director, Indine, Inc 233
  Druckrey, Dale, Social Services Director, and Louis White, Sr., director of Drugs and Alcoholism program, Menominee County 204
  Fossum, John, chairman, Menominee County Housing Authority 200
  Franklin, Hon. Marvin, Assistant to the Secretary for Indian Affairs, Department of the Interior 285
  Froehlich, Hon. Harold V., a Representative in Congress from the State of Wisconsin 7, 250
    Introductory statement in Congressional Record, May 2, 1973 8
  Giese, William R., legal counsel, Lake Moshawquit Property Owners Association, Neenah, Wis 343
  Grignon, Jerome, representing the Menominee Council of Chiefs 209
  Grover, Hon. Herbert, Representative in the Wisconsin State Assembly 19
  Hansen, Hon. Julia Butler, a Representative in Congress from the State of Washington 272
  Howard, Simon, president, the Minnesota Chippewa Tribe 217
  Jacobs, Isaac 70
  Jacobs, Teresa 65
  Kastenmeier, Hon. Robert W., a Representative in Congress from the State of Wisconsin 271
  Kenote, George 110
  Kingston, Alan, [illegible] superintendent of public instruction, State of Wisconsin 329, 333
  LaFave, Hon. [illegible], member, State Senate, State of Wisconsin 17, 328
  LaFave, State [illegible] Reuben, State of Wisconsin, as presented by Alan Kingston 329
  League of Women Voters of the United States 396
  Leon, Francis 68
  Lucey, Hon. Patrick J., Governor, State of Wisconsin 275
  Lurie, Dr. Nancy, curator, Milwaukee Public Museum 180

Statements—Continued | Page
- Menominee County Education Committee, Inc., addendum to statement of Carol Dodge (plus charts) 76
- Miller, Ben, Hilary Waukaw, Arnold Gruber and Robert Hendricks 95
- Munnell, David, chairman of the Chippewa Reservation 220
- Nash, Philleo, professor of anthropology, American University, Washington, D.C 122
- Nelson, Hon. Gaylord, a U.S. Senator from the State of Wisconsin 1
- Obey, Hon. David R., a Representative in Congress from the State of Wisconsin 12, 261
- Orfield, Dr. Gary, U.S. Commission on Human Rights 155
- Ottina, Dr. John, Commissioner of Education designate, Department of Health, Education, and Welfare 287
- Perrote, John, chairman, Menominee Indian AIM chapter 63
- Powless, Lloyd, president, Determination of Rights and Unity Menominee Stockholders, Inc 70
- Reinardy, M. J., M.D., Keshena, Wis 395
- Rieter, Randy, chairman, Menominee Community Action Program 202
- Swedberg, Ellen, senior public health nurse in Menominee County and Alfred Pyatskowit, director, Neighborhood Youth Corps 113
- Thayer, Arvina, coordinator, Great Lakes Inter-Tribal Council, Inc 225
- Theobald, Dr. H. Rupert, chief of the Legislative Reference Bureau, State of Wisconsin 396
- Waukechon, Joseph, Menominee Highway Department, and Gordon Keshena, board of directors, Menominee Enterprises 175
- Waupochick, Antoine 66
- Webster, Louis 215
- Weso, Monroe M 57
- White, James A., Frances Oshkenaniew, Thomas Matchoma, Freida Bergeon, Louis Tomow Kitchkume, Joanne Basquez, and Gwendolyn Dodge White 59
- Wilber, Sylvia, chairperson, Board of Directors, Menominee Enterprises, Inc 36, 295
- Wiley, John M., director, Wisconsin Judicare, Inc 237
- Willmas, Florian, president, Moshawquit Lake Association, and William R. Giese, attorney for the association 164

Letters:
- Abzug, Hon. Bella S., Member of Congress, to Hon. Lloyd Meeds, dated June 28, 1973 275
- Aspin, Hon. Les, Member of Congress, to Hon. Lloyd Meeds, dated June 26, 1973 274
- Blatnik, Hon. John A., Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 274
- Bodoh, Rita W., to Congressman Lloyd Meeds, dated May 26, 1973 394
- Burke, Hon. Yvonne Brathwaite, Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 271
- Carver, Hon. John A., Jr., Assistant Secretary of the Interior, to Hon. Wayne N. Aspinall, dated April 10, 1961 (report) 131
- Crow, John O., Deputy Commissioner, Bureau of Indian Affairs, to Hon. William Proxmire, dated October 26, 1971 45
- Dick, Mrs. Agnes, Keshena, Wis., to Subcommittee on Indian Affairs, dated June 26, 1973 393
- Dodge, Atlee A., secretary, Menominee Indian Tribe of Wisconsin, Inc., Neopit, Wis., to Hon. Harold Froehlich, dated June 24, 1973 (plus resolution) 255
- Fraser, Hon. Donald M., Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 273
- Hamlet, Charlotte, Milwaukee, Wis., to Subcommittee on Indian Affairs, dated May 26, 1973 394
- Harrington, Hon. Michael J., Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 274
- Herrick, C. E., secretary, Legend Lake Property Owners Association, Keshena, Wis., to Hon. Lloyd Meeds, dated June 12, 1973 174
- Kyl, Hon. John, Assistant Secretary of the Interior, to Hon. James A. Haley, dated June 27, 1973 (Report) 241
- Lucey, Hon. Patrick J., Governor, State of Wisconsin, to Congressman Lloyd Meeds, dated May 24, 1973 (telegram) 3

Letters—Continued | Page
- Preloznik, Mr. Joseph, to Congressman Obey, dated April 27, 1973 ... 15
- Ruppe, Hon. Philip E., Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 ... 273
- Waldie, Hon. Jerome R., Member of Congress, to Hon. Lloyd Meeds, dated June 27, 1973 ... 275
- Weinberger, Hon. Caspar W., Secretary of the Department of Health, Education, and Welfare, to Hon. James A. Haley, dated July 11, 1973 (report) ... 247
- White, Louis (Si), Project Phoenix, Milwaukee, Wis., to Congressman Lloyd Meeds, dated June 8, 1973 ... 208

Additional information:
- Employment/Unemployment analysis—December 1, 1967 to June 1973 (table) ... 203
- Giese, William R., legal counsel, Lake Moshawquit Property Owners Association, agreements submitted by, for the record:
  - Lease agreement between Raymond Lodholz and Menominee Enterprises ... 351
  - Trust agreement between Raymond Lodholz and Menominee Enterprises ... 354
  - Transfer between Menominee Enterprises and Robert H. Rector ... 358
  - Lease between Robert Rector and Menominee Enterprises ... 360
  - Agreement to cancel lease, and purchase real estate between Robert Rector and Menominee Enterprises ... 364
  - Land contract between Menominee Enterprises and Howard and Doris Lancelle ... 367
- Memorandum re Restoration Act, Native American Rights Fund, Boulder, Colo.:
  - Dated April 5, 1973 ... 51
  - Dated May 23, 1973 ... 53
- Menominee County Community Action Program, Inc.—Impact Study (table) ... 202
- Menominee Enterprises, Inc.—Financial analysis-ratios March 1973 (table) ... 89
- Menominee Enterprises, Inc.—Summary of Forestry and Mills Operations for fiscal years 1961 through 1972 (table) ... 89
- Menominee Indian Tribe of Wisconsin, Inc., Council of Chiefs, resolution, dated June 13, 1973 ... 256
- Menominee Termination: From Reservation to Colony, paper by Nancy Oestreich Lurie ... 184
- Percentage of 1968–69 9th Grade enrollment that completed in 1971–72 school year from Shawano High—chart 3 ... 78
- Profile Chart for Averages, Iowa Tests for basic skills:
  - Figure 3 ... 77
  - Figure 6 ... 77
- Report No. 272, 87th Congress, First Session, lessening the impact of the termination of Federal Services to the Menominee Indian Tribe of Wisconsin ... 128
- Shawano School District, 1972–73 (table), presented by Alan W. Kingston, Assistant Superintendent, Division of State Aids and School Finances, State of Wisconsin ... 336
- State of Wisconsin joint resolution No. 79, S ... 126
- Status of the termination of the Menominee Indian Tribe, report of the Bureau of Indian Affairs to the House Appropriations Committee, dated February 1965 ... 139
- Thayer, Arvina, information supplied for the record in written statement:
  - Table I.—Population characteristics of Tribes ... 228
  - Table II.—Economic characteristics of Tribes ... 228
  - Table III.—County, population and Wisconsin per capita taxable income—1969 ... 229
  - Table IV.—Travel distances from Indian community to nearest goods and services center ... 229
  - Map of Wisconsin ... 233
- The States and their Indian citizens (table) ... 254
- Wisconsin Assembly bills, amendments and fiscal notes, submitted by State Senator Reuben LaFave ... 330

H.R. 7421—THE MENOMINEE RESTORATION ACT

FRIDAY, MAY 25, 1973

House of Representatives,
Subcommittee on Indian Affairs
of the Committee on Interior and Insular Affairs
Keshena, Wis.

The subcommittee met, pursuant to notice, at 9:50 a.m., in the Visitors Destination Center, Keshena, Wis., Hon. Lloyd Meeds (chairman of the subcommittee) presiding.

Mr. Meeds. The Subcommittee on Indian Affairs will be in order. These field hearings of the subcommittee are convened for the consideration of H.R. 7421 by Mr. Froehlich and others.

We will first have an opening prayer by Mr. Don Perote.

Mr. Perote.

[Prayer.]

Mr. Meeds. Thank you very, very much, Mr. Perote.

Senator Gaylord Nelson has submitted a statement to our subcommittee for the record, and we also have a telegram from Gov. Patrick J. Lucey of Wisconsin. Both of these, along with a copy of the bill will be inserted in the record at this point, without objection.

[The documents referred to follow:]

Statement of Hon. Gaylord Nelson, a U.S. Senator From the State of Wisconsin

Mr. Chairman, it is an honor to present testimony to the House Subcommittee on Indian Affairs in support of the Menominee Restoration Act, introduced by 25 members of the House of Representatives, and by Senators Proxmire and myself in the Senate.

Congressman Meeds and the House Interior Committee are to be highly commended for arranging this series of hearings in Menominee County so quickly after the introduction of the initial legislation.

The passage of the Menominee Restoration Act would be a suitable end to the twelve year struggle of the Menominee people to have the termination of their tribe restored, for in those twelve years, the people of Menominee County have demonstrated their sincere desire and support for restoration.

In 1961, as Governor of Wisconsin, I went to Washington to express my opposition to termination as "unworkable and a tragic injustice to the Menominee people."

Once termination went into effect, its disastrous effects on the interests of the people of the Menominee Indian tribe became clearly evident. With the elimination of federal services, and a property tax base far too small to support the needed services for the people, the newly formed Menominee County, was faced with a crisis situation. The school and hospital had to be closed because they did not meet federal standards, the sewerage system had to be totally renovated at the Menominee's expense, and generally the economic condition of the county deteriorated to a point where it was difficult, if not impossible, to maintain a decent standard of living.

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The sad plight of the Menominee because of termination has been recited time and again during the continuing debate over earlier versions of the Restoration Act. The statistics of the hardship that the Menominee people have been confronted with—26% unemployment, average family income of one-half the state average, inadequate property tax base to support needed services, and unsuitable educational facilities—all present a disheartening picture.

The Congress, through the Nelson-Laird bill in 1966, provided $1.8 million for Menominee County for the purposes of education, public welfare benefits, health and sanitation facilities, and the construction of sanitation buildings. Although this assistance was somewhat helpful, it was still far short of what would have been required to adequately deal with the problems at hand.

Clearly, the policy of termination forced on the Menominee Indian tribe is wrong both from a humanitarian standpoint and from an economic standpoint. The money that has been necessary to be injected into the Menominee economy to provide an amount of minimal assistance is far greater than would be the cost of reinstating the tribe under federal jurisdiction and once again assuring that education, health needs, and employment opportunities are given to the citizens.

In 1971, the federal government spent more than $2.4 million in Menominee County, for general assistance in a number of key areas. On the other hand, the Bureau of Indian Affairs has estimated that it would cost about $1.4 million per year to restore BIA-authorized services to the Menominee, and the Public Health service estimates that approximately $640,000 would be needed to provide adequate health facilities for the Menominee.

A recent report of the Bureau of Indian Affairs to the House Committee on Appropriations presented the full picture of the problems that the Menominee have faced as a result of termination. That report, issued on April 6, 1973, makes two very important conclusions. First, that Menominee Enterprises, Inc., the corporation established to administer the tribal assets, "will be out of operation within two years without massive support. The restoration of the trust status and extension of BIA services would eliminate the tax burden and make MEI a viable economic unit."

And second, the Interior-BIA report extends this perilous economic status to the county when it says, "Unless relief is made immediately available in the form of either a massive infusion of public funds or restoration . . . Menominee County will go under."

Through the years 1961 and 1973, the Menominee people have expressed their support for restoration, and have worked through various channels to strengthen the activities of M.E.I. Recently, the corporation announced that, for the first time in many years, M.E.I. had made a profit, although a very slim one. The economic status of the county is still very tenuous.

The question of restoration of the Menominee Indian tribe is one which goes beyond simply the State of Wisconsin, but extends to the national level of concern. While this legislation is an effort to remedy a local wrong, it also will make clear nationally that Congress is sensitive to the failure of termination as a public policy.

President Nixon, in 1970, stated that:

> "Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking that Congress . . . renounce, repudiate and repeal the termination policy as expressed in the 83rd Congress (August, 1953)."

Certainly, it would be indefensible to admit that Congress erred in its policy of termination, and then not to rectify that error by reversing termination. The experiment of termination was a failure. The very least we can do is to come to the aid of one of the tribes upon which the experiment was tried.

The hearings being held this weekend are an important first step towards assuring that the Restoration Act is passed by the Congress. Therefore, the words of those Menominee who have been affected by termination are crucial to the hearing record.

The Menominee Restoration Act now in Congress reflects a serious effort at cooperation between the members of Congress and the Menominee people to encourage swift consideration of the legislation by the appropriate committees. Last year, hearings were held in Congress, but no action was forthcoming. This year, with the cooperation of all involved, it appears likely that the Congress will have an opportunity to act favorably on a final version of the Menominee Restoration Act.

Now is the time for Congress to act and move toward righting the wrongs perpetrated on the Menominee people. We must reassert and reassume our treaty obligations towards the Menominee. The restoration would do just that: protect their assets, lands, resources, and rights, and provide the basic and necessary community services to which the Menominee people are justly entitled.

MADISON, WIS., *May 24, 1973.*

Congressman LLOYD MEEDS,
Holiday Inn,
Green Bay, Wis.

I want to welcome you to Wisconsin, and thank you and members of the Interior Committee for coming here to conduct hearings. *I would like to indicate my strong support for the restoration of the Menominee Indians to tribal status.* This has been a concern of mine since I have become Governor. Unfortunately, my schedule will not permit me to attend these hearings, however, I will be testifying at the restoration hearings in Washington.

PATRICK J LUCEY,
Governor of Wisconsin.

[H.R. 7421. 93d Cong. First Sess.]

A BILL To repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to Americans because of their status as American Indians; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Menominee Restoration Act".

SEC. 2. For the purpose of this Act—

(1) The term "tribe" means the Menominee Tribe of Wisconsin.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Menominee Restoration Committee" means that committee of nine Menominee Indians who shall be elected at a general council meeting called by the Secretary pursuant to section 4(a) of this Act.

SEC. 3. (a) Effective on the date of enactment of this Act, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin.

(b) The Act of June 17, 1954 (25 U.S.C. 891–902) is hereby repealed. There are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty or otherwise which may have been diminished or lost pursuant to the Act of June 17, 1954 (25 U.S.C. 891–902).

(c) Nothing contained in this Act shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty or otherwise. Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied.

SEC. 4. (a) Within fifteen days after the date of enactment of this Act the Secretary shall announce the date of a general council meeting of the tribe to elect the Menominee Restoration Committee. Such general council meeting shall be held within sixty days after the date of enactment of this Act. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (25 U.S.C. 893) and all descendants, who are at least eighteen years of age, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting. The Secretary shall approve the Menominee Restoration Committee if he is satisfied the requirements of this section relating to the general council meeting have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(b) The membership roll of the Menominee Tribe of Wisconsin which was closed as of June 17, 1954, is hereby declared open. The Menominee Restoration Committee, under contract with the Secretary, shall proceed to make current that roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. The names of any descendant of a person who is or was enrolled shall be added to the roll provided such descendant possesses at least one-quarter degree Menominee Indian blood. Upon the installation of elected constitutional officers of the Menominee Indian Tribe of Wisconsin, the Secretary and the Menominee Restoration Committee shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within sixty days after an appeal is initiated.

SEC. 5. (a) The Menominee Restoration Committee, under contract with the Secretary, shall conduct an election by secret ballot for the purpose of determining the tribe's constitution and bylaws. The Secretary shall enter into such contract with the Menominee Restoration Committee within ninety days after the enactment of this Act. The election shall be held within one hundred and eighty days after the enactment of this Act.

(b) The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultations shall not be carried on within fifty feet of the polling places on the date of the election.

(c) The Menominee Restoration Committee, under contract with the Secretary, shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as members of the tribe's governing body. The Secretary shall enter into such contract with the Menominee Restoration Committee within sixty days after the tribe adopts a constitution and bylaws pursuant to subsection (a) of this section. The election shall be held within one hundred and twenty days after the tribe adopts a constitution and by-laws.

(d) In any elections held pursuant to subsections (a) and (c) of this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the election of the tribe's governing body, so long as, in each such election the total vote cast is at least 30 per centum of those entitled to vote.

(e) The Act of June 18, 1934 (25 U.S.C. 461 et seq.) shall not apply to any election under this Act.

SEC. 6. (a) Subsections (c) and (d) of this section shall not become effective until two years following the enactment of this Act.

(b) The Secretary shall negotiate with the elected members of the Menominee Common Stock and Voting Trust and the board of directors of Menominee Enterprises, Incorporated, or their authorized representatives, to develop a plan for the assumption of the assets of the corporation.

(c) The Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (b) of this section, accept the assets (excluding any real property not located in or adjacent to Menominee County, Wisconsin) of Menominee Enterprises, Incorporated, but only if transferred to him by the board of directors of Menominee Enterprises, Incorporated, subject to the approval of the shareholders as required by the laws of Wisconsin. Such assets shall be subject to all valid existing rights including, but not limited to liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this section shall be subject to foreclosure or sale pursuant to the terms of any obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary shall accept the real property (excluding any real property not located in or adjacent to Menominee County, Wisconsin) of members of the Menominee Tribe, but only if transferred to him by the Menominee owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligation. The land transferred to the Secretary pursuant to this section shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(e) The Secretary and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as the result of the transfer of assets provided for in this section.

SEC. 7. The tribe's constitution shall provide that the governing body of the tribe, after full consultation with the Secretary, (1) shall make rules and regulations for the operation and management of the tribal forestry units on the principle of sustained-yield management, (2) may make such other rules and regulations as may be necessary to protect the assets of the tribe from deterioration, and (3) may regulate hunting, fishing, and trapping on the reservation. Fishing by non-Menominees on Legend Lakes, LaMotte Lake, Moshawquit Lake, and Round Lake shall be regulated by the State of Wisconsin, and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin.

SEC. 8. In recognition of the special educational needs of Menominee students and of the responsibility of the United States for the impact that members of the Menominee tribe have on local educational agencies, Congress declares it to be the policy of the United States to provide full financial assistance for Menominee students to those local educational agencies which enroll two or more members of the tribe who reside on the reservation or within the boundaries of Menominee County.

SEC. 9. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. MEEDS. The bill, H.R. 7421 provides for the repeal of the Act of June 17, 1954, terminating Federal supervision over the Menominee Tribes of Indians. Restoration of the Menominee Tribe to Federal recognition and services; and to provide for establishment of tribal government.

I have scheduled these field hearings here in Menominee County to take testimony from the people, Indian and non-Indian, who will be most directly affected by enactment of this legislation.

In the 1950's, the Federal Government embarked upon an Indian policy of termination of supervision of the affairs of Indians. This policy grew out of the adoption by the 83d Congress of House Concurrent Resolution 108.

This policy was opposed at the outset by the Indian people and was adopted and implemented over the strenuous objections of the Indians. There is ample evidence to indicate that pressures were exerted on the Menominees and other terminated tribes to obtain consent to such termination or at least a request for termination.

Termination, as a means of fulfilling the obligations and commitments of the Federal Government to the Indians has, beyond question, proven a failure.

Termination, as a means of making the Indians first-class citizens and conferring self-determination on the Indian people has, beyond question, proven a disaster to the Indian tribes and people.

In 1954, the Menominee Tribe had nearly attained the goal now set by the United States as an Indian policy—self-determination and local control. The tribe was paying for almost the total expenses of its government and tribal affairs. Less than $200,000 was being appropriated by the Federal Government for the tribe. Indeed, the tribe was paying the salary of most of the Federal employees on the reservation.

Twelve years after the termination date, the report of the BIA concludes.

> Unless relief is made immediately available in the form of either a massive infusion of public funds or restoration, the Menominee Enterprises Incorporated will no longer be economically viable and Menominee County will go under.

This must stand as an effective indictment of termination as a national approach to Indian affairs.

The testimony we will hear today will help forge the final shape of this legislation. We are happy to welcome you, Representative Froehlich, and you, Representative David Obey.

Now, there will be some statements made today with which you will disagree and there may be some temptation to manifest such disagreement even in some untoward fashion. This is a congressional hearing. If anything is to be accomplished we must have order to accomplish it, and the first manifestation of an orderly society is the ability to disagree without being disagreeable. So the chairman would ask all of you to abide by self-imposed limitations on untoward outward manifestations of either agreement or disagreement, and to respect the decorum of this lovely land and this not so lovely subcommittee.

Thank you very much.

The gentleman from New Mexico.

Mr. Lujan. Thank you, Mr. Chairman.

I also feel privileged to have come to this beautiful area of the country. I must tell you that I come to this area without any preconceived ideas as to how I might stand on the question of restoration.

I am not for, at this moment, nor am I against. The only thing that I might say is that I do stand for the policy that the President has stated of self-determination without termination.

However, the restoration aspect presents some very real problems and of course the whole purpose of my trip today, Mr. Chairman, is to find out what these problems are and in the final analysis make up my mind as to which way I should vote on the matter.

Mr. Meeds. Thank you, Mr. Lujan.

The first witness will be your own Representative, Harold Froehlich, who is the prime sponsor of this legislation and I might say a very energetic and hard working young, new Member of the U.S.

Congress, and David Obey, the former Representative of this area and a person with whom I've had the pleasure to serve for some three terms now and whom I have found to be conscientious and hard working.

You are indeed graced with a fine, hard-working Representative at present and you have had one in the past.

Would you gentlemen please come forward.

STATEMENTS OF HON. HAROLD V. FROEHLICH, A REPRESENTATIVE IN CONGRESS FROM THE EIGHTH CONGRESSIONAL DISTRICT OF THE STATE OF WISCONSIN, AND HON. DAVID R. OBEY, A REPRESENTATIVE IN CONGRESS FROM THE SEVENTH CONGRESSIONAL DISTRICT OF THE STATE OF WISCONSIN

Mr. MEEDS. Mr. Froehlich, as the prime sponsor for this legislation, we would be delighted to hear from you.

Let me say at the onset, it is a pleasure to be in your district.

Mr. FROEHLICH. Thank you, Mr. Chairman.

Mr. Chairman and Mr. Lujan, at the outset let me say that I welcome you to Wisconsin and to the Eighth Congressional District. We are very proud to have you distinguished gentlemen here and hope that you will find your stay pleasant and productive.

I know that Congressman Lujan had planned an excursion in Mexico with his wife, and coming here this Memorial Day weekend was a special sacrifice, but he came because of his great interest in this area.

Two points should be made about these hearings themselves. First, they were announced the day after the introduction of the Menominee Restoration Act and they are being held less than a month after the introduction of the bill. The dispatch with which this legislation is being considered indicates a welcome recognition of its importance and its urgency.

Second, these 2 days of the hearings in Menominee County which give the people here a chance to state their views and to speak their minds on pending legislation represent a marked contrast to the way in which Menominee termination was handled by Congress in the early 1950's. The subcommittee comes here to listen and to inquire. It does not come here to dictate.

I think the contrast will be appreciated by the men and women who remember the events preceding the passing of the Termination Act in 1954. Both the speed and the location of these hearings reflect the sensitive and able leadership of the chairman of the subcommittee, the gentleman from Washington.

There is good basis for the high regard and esteem in which he is held by other Members of Congress and his good standing among Indian groups throughout the country. I am very proud to have him as a cosponsor of this bill.

May I also pay tribute to my good friend and colleague from the Seventh District, Mr. David Obey, whose continuing concern about the interests and problems of the Menominee Tribe is fully demonstrated by his presence here this morning. It should be recorded that Congressman Obey introduced the first Restoration Act last year.

Mr. Chairman, it is my understanding that additional hearings on H.R. 7421 will be held in Washington at a later date. I would like to reserve the opportunity of testifying in detail on the provisions of this bill at one of those hearings. For the moment I would like to submit a copy of my introductory statement of May 2 from the Congressional Record and make some special observations of a general nature.

Mr. MEEDS. Without objection, your introductory statement will be entered in the record at this point.

[From the Congressional Record, May 2, 1973]

RESTORATION OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN

(By Hon. Harold V. Froehlich of Wisconsin, in the House of Representatives)

Mr. FROEHLICH. Mr. Speaker, on June 17, 1954, the United States by act of Congress terminated the Menominee Tribe of Wisconsin, depriving them of recognition as Indians under Federal law, closing their tribal roll, and withdrawing from them the services and assistance accorded to American Indians because of their unique status.

Whatever its motivation and objective, this Termination Act has proved in the ensuing years to be a misconceived and tragic experiment. It was an involuntary experiment that has produced cultural shock and severe economic hardship for the Menominee people. It has led to disorientation, disunity, and despair in the tribe. And it has written a sad and regrettable chapter in American social history.

Today, I am introducing legislation to restore Federal recognition to the Menominee Tribe and to reestablish their reservation. My bill, among other things, will repeal the Menominee Termination Act of 1954. This will not only improve the economic situation for the Menominee people but also provide a signal to Indian tribes across America that termination as a policy has been repudiated. Because of the symbolism inherent in the restoration of a terminated tribe, the Menominee Restoration Act could well be the most significant Indian legislation to come before the 93d Congress. When it is enacted, its impact will be felt on every Federal reservation in the United States.

I am proud to be joined in this important and historic legislation by my friend and colleague from Wisconsin, David Obey, who introduced the first Menominee Restoration Act last spring, and by Representatives Abzug, Anderson of Illinois, Aspin, Bingham, Blatnik, Burke of California, Chisholm, Cleveland, Derwinski, Fraser, Hansen of Washington, Harrington, Kastenmeier, Meeds, Reuss, Roybal, Ruppe, Sarbanes, Thomson of Wisconsin, Waldie, Young of Georgia, Young of Alaska, and Zablocki.

I am deeply grateful to all these distinguished Members of the Congress for the invaluable support they have given to this bill.

Mr. Speaker, permit me to explain briefly the background and the consequences of the termination policy, as applied to the Menominee Tribe.

In 1951, the Menominees won a judgement of $8.5 million against the United States for mismanaging the assets of the tribe. According to law, this judgment was deposited for the tribe in the U.S. Treasury. A decision was then made by the tribe to seek legislation authorizing the distribution of part of this judgment to individual tribal members. Such legislation was introduced by former Representative Melvin R. Laird, and was passed by the House.

In the Senate, however, this per capita distribution bill was radically altered to embody and implement the policy of termination established in House Concurrent Resolution 108, passed by the 83d Congress in 1953. The prime mover in this effort was Senator Arthur Watkins, who fervently believed that the U.S. Government, notwithstanding its treaty obligations to various Indian tribes, should "get out of the Indian business."

"Uncle Sam . . . cannot possibly do the job—

Watkins told the Menominees during a brief appearance on their reservation—

Congress has gotten to the point where it wants to put these people on their own feet and let them have full control of their affairs just as rapidly as it can be done.

For various reasons the Watkins version of the bill was enacted, and the tribe was terminated. Although Federal supervision was extended until 1961, the decline in the fortunes of the Menominee Tribe began the day the Termination Act became law.

It is sometimes contended now that the Menominees wanted the termination of their trust relationship. This is not borne out by the record. While it is undoubtedly true that most of the few Menominees who participated in the tribal council meetings at that time desired legislation to authorize a partial distribution of their recently-won judgment, there is scant indication that there was ever much sentiment for termination. The only vote that could be construed as supporting termination came on the heels of Senator Watkins' visit to the reservation, amid great confusion and misunderstanding. At stake in the vote was the carrot of a $1,500 per capita distribution that was tied, apparently inextricably, to something vague called termination, which Senator Watkins had said was inevitable. It was hardly an election with clear cut issues, held under laboratory conditions.

At a later date, when the meaning of termination became more clear, the tribe voted unanimously to reject termination.

There was even less confusion among officials of the State government and the Board of Supervisors of Shawano County. They were against termination, said so repeatedly, and tried first to prevent it and then to repeal it. These efforts were discontinued only after termination became an accomplished fact that was seemingly irreversible.

After a period of delay ending in 1961, Menominee County was created by the State of Wisconsin to provide civil government for the former reservation. Menominee Enterprises, Inc., was established as the entity to control and manage the tribe's assets—primarily a sawmill and the forest land within the county.

Since 1961, Menominee Enterprises has been pushed to the brink of bankruptcy by business conditions, operating restrictions, and most important, the mounting tax burden of local government. Over a period of years virtually all the corporation's profits have gone into property taxes for education and other local services in the poorest county in Wisconsin.

In order to stave off financial disaster, a decision was made in the mid-1960's to begin selling Menominee land to non-Menominees. This course was designed to secure new income for the corporation and a new tax base for the county. In time, however, the decision generated great controversy.

It was highly unpopular among many Menominees, who have a deep feeling for their ancestral land; and it led eventually not only to an upheaval in the tribal leadership but also to strained relations and frictions with the new property owners. The legitimacy of some of the land sales and of the hunting and fishing rights that were purportedly conveyed in some of these sales, is now being tested in the courts.

Regrettably, the sale of Menominee land created new problems, but it did not lift the corporation or the county out from under their serious economic difficulties. These acute problems remain.

In 1970, in his Recommendations for Indian Policy, President Nixon rejected the policy of termination, citing its "bad practical results" in the few instances in which it had been tried. Writing with the Menominees in mind, the President declared:

The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State, and local assistance efforts. *Their economic and social condition has often been worse after termination than it was before.*" [Italic supplied.]

Last month, in a special report, the Bureau of Indian Affairs rendered an even more sobering assessment of the crisis in Menominee County:

The economic instability of MEI combined with the elimination of public funds to the county make the situation perilous. Unless relief is made immediately available in the form of either a massive infusion of public funds or restoration, MEI will no longer be economically viable and Menominee County will go under.

These are some of the serious considerations that have prompted me to introduce and strongly support the Menominee Restoration Act.

These are some of the considerations that require the prompt enactment of this legislation by the House and Senate.

Termination of the Menominee Tribe was a monumental mistake. It must be corrected, and it must be corrected now.

It is imperative to recognize, however, that the correction of this mistake will not be uncomplicated. Restoration of the reservation will have widespread ramifications affecting many interests. In the push for restoration, these competing interests cannot be ignored. They must be considered and, if possible accommodated, without losing sight of ultimate objectives. That is what I have tried to accomplish in this bill.

The bill in its present form:

Repeals the Termination Act of 1954 and reinstates all rights and privileges lost on account of that act;

Extends immediate Federal recognition to the Menominee Tribe of Wisconsin, making them eligible immediately for Federal services and assistance;

Opens the tribal roll and eventually gives to the tribe complete control of the enrollment process;

Calls for the election of a 9-member Menominee Restoration Committee within 60 days of enactment;

Provides for an election to determine the tribe's constitution within 180 days of enactment;

Sets an election of constitutional officers within 120 days after the approval of a tribal constitution;

Gives to the tribe broad discretion to fashion a tribal constitution; and

Authorizes to be appropriated such sums as are necessary to carry out the provisions of the Restoration Act.

Nothing in the Restoration Act diminishes the treaty rights of the Menominee people.

Nothing in the Restoration Act disturbs, diminishes, or prejudices the property rights of non-Menominee people who own land in Menominee County.

In all these provisions, the substance of the draft bill that was submitted to me last December has not been changed.

There are, however four major changes in the bill that should be mentioned.

The first and most important change is contained in section 6(a). This section provides that the land controlled by Menominee Enterprises and the land owned by individual Menominees shall not be accepted into trust by the Secretary of the Interior until 2 years after the enactment of the bill.

The purpose of this provision is to permit an orderly period of transition from the time of enactment to the time when the vast majority of land in Menominee County is stricken from the property tax rolls of local government. During this transition period all concerned parties will be able to assess the desirability of preserving or restructuring local government, and all concerned parties will be able to gage the impact of Federal financial assistance for the tribe on the budgets of the town and county governments. The more Federal assistance that is received, the more the cost of local government should go down. Should Federal financial assistance be substantially less than anticipated, however, the burden of financing local government will not fall immediately and unfairly upon the non-Menominee property owners in Menominee County.

This provision is a compromise between those who would like all sections of the Restoration Act to take effect immediately and those who would prefer to make the effective date contingent upon total restoration of the local government structure that existed prior to terminaion.

My able colleague, Mr. Obey, believes that a 2-year delay before the trust relationship is established is unnecessary and that the problems with which non-Menominee property owners are concerned are largely illusory. I do not share this view.

To my mind, the ultimate solution to the problem of uncertain Federal revenues and the inevitable friction that will result from a nontaxpaying Menominee majority assessing and taxing a largely nonvoting but taxpaying non-Menominee minority, is a restoration of the town and county lines that existed before termination.

Because I believe the vital interests of all concerned parties will best be served by discontinuing the life of Menominee County, I will attempt to persuade the Interior Committee to reflect this view in the committee's final bill.

A second major change is the addition of section 8. This section recognizes the special educational needs of Menominee young people and the responsibility, not of local taxpayers, but of the U.S. Government to meet these needs.

Hence, this section declares it to be "the policy of the United States to provide full financial assistance for Menominee students to those local educational agencies which enroll two or more members of the tribe who reside on the reservation or within the boundaries of Menominee County."

This provision is designed to promote high quality education for Menominee students without unfairly burdening local taxpayers. I am determined to see that restoration is a benefit, not a burden. This provision will go a long way toward achieving that end.

A third significant change is contained in the last sentence of section 7. This sentence declares that fishing by non-Menominees on the Legend Lakes, La Motte Lake, Moshawquit Lake, and Round Lake shall be regulated by the State of Wisconsin. The sentence also imposed a duty upon the State of Wisconsin to treat property owners on these lakes in the same manner as it treats other property owners by periodically stocking these lakes with fish "in the same manner as other lakes are regulated by the State of Wisconsin."

The State's recognition of the treaty rights of Menominee Indians to fish without regulation in all the lakes in Menominee County should not and must not give rise to any deprivation of the rights of non-Menominee property owners. This section asserts the determination of the Congress that this shall not happen.

The final important change is the elimination from section 5 of the draft bill a clause that required the tribe's constitution to contain a provision prohibiting the sale of all land within the limits of the tribe's reservation.

The tribe is authorized by my bill to include in its constitution a clause prohibiting the sale of reservation land, but I do not believe that Congress should require them to do so. To my mind, such a clause is not in keeping with the new spirit of self-determination that should apply to Indian tribes in the governance of their internal affairs.

I do not advocate the sale of tribal land, but I can conceive of situations in which a majority of the tribal members might wish to sell a small part of their reservation. To require an Act of Congress in order to sell a small piece of land is to say, in effect, that the Menominees, having been through so much, cannot be trusted to decide the most important of their own affairs. That is a proposition to which I cannot subscribe.

The bill introduced today is a forthright attempt to correct a national mistake and to promote self-determination and self-sufficiency within the context of a trust relationship.

It is an important and vital bill that I hope will touch the conscience of America.

The bill, H.R. 7421, will be found on p. 3.

Mr. FROEHLICH. The bill I introduced has two great objectives. The first objective is to deal quickly and responsibly with the many economic and social problems of the Menominee people, particularly in Menominee County. I believe this legislation will bring about an improvement in the whole situation, and this is needed.

The second objective, which is indirect, is to mark the repudiation of the termination policy of the U.S. Government. This latter objective may make H.R. 7421 the most significant Indian legislation to come before the 93d Congress.

The more important of these two objectives is the first objective because Menominee Enterprises finds itself in very serious economic straits. We must come to grips promptly with the economic and social problems of the tribe. This final objective must not be relegated to minor importance in an attempt to correct at one time the whole vast series of problems across the Nation that were created by the policy of termination.

I am confident that the testimony presented to this subcommittee will unmistakably reveal the need for urgency in the enactment of this bill. It will also reveal the special local difficulties that were created by termination.

I find it almost impossible to believe that Congress can deal adequately with the individual local problems of all terminated tribes and still pass a bill restoring the Menominee in the near future.

My second major observation is related to the first. We cannot back legislation to restore the Menominee Tribe to full Indian status and reestablish the reservation and place the reservation in trust without carefully considering the impact of these profound developments on all the parties who will be affected, and protecting their interest also. Restoration of the Menominee Tribe will have widespread ramification affecting many interests.

In the push for restoration these interests cannot be ignored; if possible they must be accommodated without losing sight of the ultimate objective. That is what I have tried to accomplish in the pending bill. Let me give just one example. The Menominees have treaty rights with the U.S. Government. They do not have treaty rights with Shawano County.

The education of Menominee young people is and must be the responsibility of all Federal taxpayers. It must not become a responsibility of Shawano County taxpayers.

As I said when I introduced the restoration bill, I am determined to see that restoration is a benefit and not a burden. That is why, for example, section 8 is included in the bill.

With these two thoughts in mind, let me reiterate my appreciation for these hearings and for the presence of distinguished members of the subcommittee, and let us go on at this time.

We will hear from my colleague and then the people here who this committee came to accommodate.

Thank you very much, Mr. Chairman.

Mr. MEEDS. Thank you very much for a very fine statement, Mr. Froehlich.

Mr. Obey, would you like to proceed?

STATEMENT OF HON. DAVID R. OBEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. OBEY. Mr. Chairman, first of all I would like to join my colleague, Congressman Froehlich, in welcoming both you and Congressman Lujan and the committee staff here to Menominee County. As has been indicated I represented this area from the time I came to Congress in 1969 until reapportionment placed this county in the Eighth Congressional District last year, and although I no longer represent the people of Menominee County my commitment to them lingers.

I would like just as an aside before I begin—because I know the people in this area may be wondering what kind of people come here from Washington—I just want to say most clearly that without the help of both of these gentlemen I would not have been able to obtain passage of a bill last year which restored to the Stockbridge-Munsee Indians over 13,000 acres of FSA lands, and I think you have in both Mr. Lujan and Mr. Meeds people who do understand and do have concern about the problems of Indian people. And I think that is evidenced by the fact that they come here today and the spirit in which they have come.

I would like to take just a few moments to explain to you my reasons for offering this bill as I did in the 1972 session, and to explain what I think the most important features of it are.

The question is asked by some people, well, has termination really failed.

Mr. Chairman, I can remember as a kid when the Menominees were terminated—I think I was a sophomore in high school at the time—and I remember the doubts that were expressed at that time that termination would hurt and not help the Menominees. I think those doubts have proven right.

Before termination, the Menominees had their own hospital; they owned valuable forest land. As you have indicated, they paid for most of the BIA services they received and while not being well off economically they were certainly better off than most other tribes.

Since termination unemployment in this county is at an intolerable level. It is at 26 percent compared with an overall state average of 5 percent, and I think that 26 percent is understated for reasons which were discussed last night.

The school dropout rate for the Menominees is 75 percent. The medical facilities are totally inadequate.

The per capita income is less than one-third of the State's average and, importantly in spite of the fact that this tribe has gone to great lengths throughout its entire history to keep its land intact for the tribe, termination has required the Menominees to sell thousands of acres of their land to help the county and Menominee Enterprises keep its economic head above water.

If that is success, Mr. Chairman, I would hate to see failure.

Why, is the restoration needed? As one answer to that question I think it would be constructive to read into the record two paragraphs from the recent BIA study on the economic conditions in Menominee County.

That study says,

> It is now estimated that without massive support MEI will be out of operation within two years. The restoration of the trust status and extension of the B.I.A. services would eliminate the tax burden and make MEI a viable economic unit.
>
> Profits from the mill could be devoted to providing services and bringing about economic development to the tribe rather than be consumed by taxes.
>
> In addition, outlays of public monies would be decreased by some $600,000 in the first year alone from taxes, and as the situation improves the reduction will be even greater.

The report goes on to make the statement,

> The economic instability of MEI combined with the elimination of public funds to the county since 1971 makes the situation perilous unless relief is made immediately available in the form of either massive infusion of public funds or restoration. MEI will no longer be economically viable and Menominee County will go under.

According to that report, then, restoration is needed if Menominee County is to remain viable.

Moreover, with restoration, the Menominees would be eligible for health and educational benefits and other Federal services which Indians receive. The Shawano County School District would be eligible for increased Federal funds because it would have a substantial enrollment of federally recognized Indian children.

The tribe would become eligible for housing and small business loans and economic development systems because they are once again a recognized tribe. The tribal lands would be put into trust and the tribe would once again be able to protect their lands for generations to come.

Now, what does the bill do? In explaining that, I would also like to explain for both the benefit of the committee and for the benefit of the people here exactly how this bill came into existence in its present form.

Two years ago, when I still represented the county, the Menominees came to me and after much discussion I introduced a bill which was somewhat different than this one. I introduced that bill not with the expectation that it would pass nor with the expectation that it was perfect, but rather with the expecation that it would begin the long process which we have begun here today, of bringing to the attention of the Congress the basic injustice done to the Menominees through termination.

Now, because of reapportionment, as I have indicated, I no longer represent this area. Congressman Froehlich does. But my interest remains, and this new bill came into being in this session of Congress after a great deal of work, after many months of debate, discussion, research on the part of the Menominees, Congressman Froehlich, myself, Senator Nelson, Senator Proxmire, and others.

I do want to say this about the gentleman who sits on my left. I have known Congressman Froehlich since we both came into the Wisconsin Legislature together in 1963. I don't think there are two members in the legislature who have disagreed with each other more often or more strongly sometimes than have he and I. But I also know, and I have come to know through those discussions, that he is a man of deep integrity and of deep convictions and motivated by what he thinks is right. And I think it is extremely important to keep that in mind, because while he and I may disagree many times, sometimes he may think I'm crazy, sometimes I may think he is, the fact is that we both get along because we have infinite respect for each other and I'm sure that respect will remain.

The basics of the bill were agreed upon with very little difficulty. No. 1, the Tribe would be restored as a federally recognized tribe and the tribal roles open; No. 2, individual Menominees would be eligible for Federal services to which all Indians are entitled; No. 3, the Menominee lands would be put into trust for the tribe and that land would be exempt from local, State, and Federal taxes.

No. 4, the property rights of non-Menominee people who own land in the county would not be affected in any way by the bill. And No. 5, the constitution and bylaws would be adopted by the tribe.

There were other questions that remained and I think it's important that we discuss them frankly. Congressman Froehlich, for instance, wondered whether the bill should allow restoration to take effect only after the legislature and local residents had acted to abolish the county.

After discussion on that point, the idea was rejected and dropped. Other proposals were considered regarding the possible division of the county with the creation of a taxable lands statute. Legal research was done and that too was discarded.

On the other side of the question, the Menominees proposed language which would have required the tribal constitution to contain language prohibiting the sale of tribal lands. But because the bill authorized and in fact required the Indians to adopt a constitution of their own, that could, and in all probability would contain a section prohibiting the sale of tribal lands.

Congressman Froehlich urged and I agreed, to take out of the Indians' proposed bill this section prohibiting the sale of any tribal lands without congressional approval.

Another suggestion was made by Congressman Froehlich to insert in the bill language saying that fishing should be regulated by the State of Wisconsin. Strong concern was expressed that this would cloud traditional fishing rights of the Menominees and this proposal too was dropped in the spirit of compromise.

Another suggestion was made by Congressman Froehlich which would have prohibited the transfer of MEI assets for 2 years. He and I have had honest disagreements about that provision. I have some reservations about it now, and that is a question which this committee must very carefully consider. The committee might, for example, prefer language which would allow the transfer of the assets to the Secretary of Interior no later than 2 years after the passage of the bill.

The question must be asked: What is likely to happen after restoration? As I indicated earlier, Congressman Froehlich is legitimately concerned that a massive tax burden might fall on the private land owners in the county, some of whom would be Indians, should restoration occur and MEI assets become nontaxable. If this in fact occurred it might be more equitable to abolish the county. That is why I agreed to a 2-year delay in the transfer provision of the bill for introduction purposes only, and was with the understanding we both had—that this bill was prepared for introduction purposes only, just to get this discussion going.

A 2-year delay, I felt, might be reasonable so as to give those who believe the county should be abolished sufficient time to make their case on the local level. And I want to emphasize that. After it considers the matter the committee might decide that 2 years is too long, but in any case I do not believe that the committee should require the abolition of the county before restoration takes place unless it finds the most extraordinary reason for doing so. Because in my judgment that would mean that Congress is simply making secondary the Federal responsibility which I believe it clearly has in this matter.

Let me also say that the Menominee representatives who worked extremely hard on this legislation do not support all parts of the bill. In fact, I think it would be helpful if I would read into the record at this point a letter which I received from Mr. Joseph Preloznik on behalf of him, and Ms. Deer and many others. The letter is dated April 27, 1973, and it reads as follows:

> DEAR CONGRESSMAN OBEY: Please be advised that I have reviewed the proposed restoration act with representatives of the Menominee Enterprises, Inc. and DRUMS and the conclusion reached by the representatives is that the bill ought to be introduced at this time in its present form. That does not mean that the Menominees are in agreement with all the provisions contained in the

bill. However, some of those changes may be accomplished after the hearings have been held, by amendments.

Specifically, the provisions that the Menominees representatives are not in agreement with relate to the portion that the Menominees would not be allowed to sell their lands without Congressional approval and the provision which would delay returning the assets into trust for two years.

While these provisions are important to the Menominees, they are of the opinion that it is much more imperative that the bill be introduced and that the hearings held since the substantial portion of the bill accomplishes the goals they have been seeking.

I just think it's important to point that out. As I said, the Menominees do not support all portions of the bill. They will no doubt talk about that later.

As I have said, I have some reservations about some sections and Congressman Froehlich has indicated in the past that he has some reservations of his own. But the Menominees do support, I believe, most of the provisions of the bill and so do I. And I think again, what must be emphasized both to the committee and the people in this room is that the bill that is before you is a bill which was agreed upon for purposes of introduction only so that this process could begin.

It is to a degree a compromise bill. You might want to change several sections of the bill after hearing from all concerned parties, but the important thing to remember is that this bill restores the Menominee Indians as a federally recognized tribe and puts their lands into a trust status. That is a tremendously important goal and one which I hope you could reach before too many months are over.

If that goal is to be reached there is going to have to be a spirit of compromise on both sides and individual egos will have to be submerged for the common good and the national interest. What those compromises should be I think your committee better than I or anyone else, can certainly most reliably answer. But I think it's terribly important that legislation restoring the Menominees to Federal status pass.

Indians want and deserve a measure of self-determination, a voice in their own affairs, an opportunity to manage the natural and human resources of their people and the ability to protect their land. That's what the Menominees want and this is why I fully support restoration for the Menominee Tribe.

I think if this legislation passes the word will truly go out across the country that the policy enunciated by the President of self-determination rather than termination is really more than just words. And I think it's important, Mr. Chairman, that that message get across.

Thank you.

Mr. Meeds. I'd like to thank both of you for fine statements and for your expeditious work with this legislation, getting it sponsored and working out the compromises about which you spoke, Congressman Obey, and other problems with which we're all aware.

I'm not going to ask questions of you gentleman because we will have another opportunity in Washington, D.C., and I just want to compliment you on your statements and say that it is our intention to work very closely with both of you; indeed, with everyone on the Wisconsin delegation, and particularly the people here, to get this legislation through as quickly as possible.

The gentleman from New Mexico.

Mr. LUJAN. I agree with you, Mr. Chairman, that we should not take the time today to ask questions of our two colleagues.

As a matter of fact, it has been my experience we don't have to ask them questions; they will come right to us any time that we run into each other at the Capitol and they will put their points across. So with that, I just want to thank both Harold and Dave for the invitation to come here, and we are certainly very happy to do so.

Mr. MEEDS. Thank you, and again my commendations to both of you.

Mr. OBEY. Thank you, Mr. Lujan. Thank you, Mr. Chairman.

Mr. MEEDS. We have heard from the Federal representatives, both past and present. We are now delighted to have with us as our next witnesses two gentlemen from the State legislative branch of government, the Honorable Reuben LaFave from the Wisconsin State Senate and the Honorable Herbert Grover from the Wisconsin State Assembly.

With typical gallantry, the member of the house has deferred to the member of the senate, and we would be delighted to hear from them both.

Senator LaFave.

STATEMENTS OF HON. REUBEN LaFAVE, MEMBER OF THE STATE SENATE OF THE STATE OF WISCONSIN, AND HON. HERBERT GROVER, REPRESENTATIVE IN THE STATE ASSEMBLY OF THE STATE OF WISCONSIN

Mr. LAFAVE. Mr. Chairman and Congressman Lujan, it is a pleasure to meet with you here today.

My name is Reuben LaFave and I am a member of the State Senate of Wisconsin and a member of the Menominee Indian Study Committee since its inception in 1955. I have served as chairman of the Menominee Indian Study Committee since 1965 and was recently reelected to serve in this capacity for another 2 years.

Gentleman, 2 years ago I appeared before the Senate Committee on Interior and Insular Affairs in support of Senate Concurrent Resolution 26. At that time, I spoke against the termination policy and pleaded that what had happened to the Menominees should not befall other Indian tribes of America. I reported that Federal assistance for the Menominees was essential; and in view of this the Wisconsin legislature had enacted legislation memorializing Congress to modify the Termination Act (Public Law 83-399) so that the Menominees would be eligible for health, education, and welfare benefits normally available to other Indian tribes, and that President Nixon issue a departmental directive to the same effect.

Today, at the direction of the Menominee Indian Study Committee, I am here to endorse the concept of restoration. The committee, while unanimously supporting the concept, has requested that H.R. 7421 be amended so that during the 2-year period between its passage and effective date of subsections 6 (c) and (d), the State of Wisconsin may investigate all possibilities of providing governmental services to the Menominees. Under the present terms of the bill, if restoration would occur, Menominee County would be retained. If county status would not be feasible or operable, the State is restricted by article XIII, section 7 of Wisconsin Constitution for partitioning the county. Article XIII, section 7 provides that any county with 900 square-miles or less, and this applies to Menominee County, cannot be divided unless the residents by referendum vote for such partitioning. This does not mean that the committee supports abolishment or division of the county, but only wants the options left open. Therefore the Menominee Indian Study Committee unanimously supports the addition of section 6(f) as follows:

> SEC. 6(f) For the purpose of implementing subsection (e), the State of Wisconsin may establish such local government bodies, political subdivisions, and service arrangements as will best provide the State or local government services required by the Menominee Indian tribe.

In addition, the references made in the H.R. 7421 to "Menominee County" in section 6 (c) and (d) and section 8 should be changed to "the territory constituting, on the effective date of this Act, the County of Menominee." Because Federal law has precedence over the State constitution, if these references are retained the legislature will not be able to alter the county structure even if partitioning was supported by a referendum in accordance with article XIII, section 7 of the constitution.

For your information, I would like to note that the Menominee Indian Study Committee also unanimously supported for introduction legislation providing for a State financed referendum whereby Menominee Enterprises Inc.'s certificate holders will be able to vote on the question of whether or not the Menominees shall be restored to Federal trusteeship.

Gentlemen, if you have any questions I would be happy to try to answer them at this time, or if you have any questions you would want pursuant to my statement, I will be available at your Washington hearings if need be, and I will draft appropriate materials in answer to any questions in writing for the committee, pursuant to my statements.

And further, we have with us today a fine gentleman who is our draftsman and library technician for the State of Wisconsin and our research expert in the field. He is also here and will be available to answer, should you have any questions later of him.

Mr. Theobald is here with us today as a guest of the committee of the Menominee Indian Study Committee.

Mr. MEEDS. Thank you very much, Senator.

The committee will proceed by listening first of all to Assemblyman Grover, and then we'll have questions of both of you if that's all right.

Mr. LAFAVE. Very good, Mr. Chairman.

Mr. MEEDS. Mr. Grover, do you have extra copies of your statement?

Mr. GROVER. I'm sorry, Mr. Chairman. I just recently got appointed to the compromise committee on the budget between two houses of the legislature, and as chairman of the education committee in the State assembly I didn't have time, nor do we have the staff to prepare written testimony. If I could make some brief remarks I would appreciate that.

Mr. MEEDS. That's the kind of statement that Mr. Lujan and I both understand. [General laughter.]

Mr. MEEDS. Please proceed.

STATEMENT OF HON. HERBERT GROVER, A REPRESENTATIVE IN THE WISCONSIN STATE ASSEMBLY

Mr. GROVER. I couldn't agree more with the Senator on the question of allowing, by amendment in your bill, to the State, an option to determine what would best serve the needs of the local people, the Menominee people, as to what kind of unit of local government ought to exist.

If I might take a little of your time, we had a recent article in the Milwaukee Journal on Pepin County in the State of Wisconsin, and it reads as follows: "Revenue sharing saves the county," thus raising the good question, why should a story in the Milwaukee Journal tell how elated county officials were in tiny Pepin County when $146,000 in Federal revenue-sharing funds bailed them out of a new tax increase to finance county services.

As it is, the county has been taxing the residents above the State legal minimum levy in recent years. Pepin County, with around 7,300 residences, is one of the smallest in the State and has only three-fifths of the State's average of equalized property evaluation per capita, yet it must carry many of the same county services costs of larger counties.

State law requires counties to provide a certain minimum of services for their residents as the State certainly is obliged to do so. Counties, after all, are arms of State government created by the State for just that purpose. The fact is that Pepin County is just too small to be economically viable, as are a number of Wisconsin's other 72 counties.

The obvious conclusion, which Pepin County residents so far have resisted, is to either merge with another county, as a State study recently recommended, or to split up and join several others.

Revenue sharing is supposed to benefit States and localities and should not serve to perpetuate the worst aspects of their organization. Governmental reform should be a minimum string attached to this essential stringless handout from Washington.

As it is, the cost of government inefficiency which Pepin County residents have insisted on financing for themselves is being spread through revenue sharing to all taxpayers.

Now, let's compare Pepin County with Menominee County. Pepin County has 7,319 residents. Menominee County has 2,607 residents. The median income in Menominee County is $5,768, Pepin County at $7,663.

After restoration, when the Menominee Enterprise lands become tax exempt, the land valuation in Menominee County would be around $16 million. In Pepin County it's $50 million at this point.

My point to you, members of this committee, is that in the interest of good government—and I support restoration wholeheartedly—I do not support Menominee County to obtain status as a county. It is an inefficient economic government unit once restoration has occurred.

The State of Wisconsin ought to have the option to devise some different type of mechanism by which they can return State services to those people in Menominee County. Maybe it's a super township;

maybe that's what it's got to be. Maybe we've got to define a new unit of government but certainly it is ridiculous, it is wasteful, indeed it's not fair to the people of Menominee County or to the State of Wisconsin with a minimum requirement is that it would require counties to maintain, to continue this unit as the county unit of government, to maintain a courthouse. What is the registrar of deeds going to do all day long, or the county clerk, with $16 million worth of evaluation. In the city of Madison that's one building. With 2,700 people, that's not even a good township.

In terms of population, by some standards in the State of Wisconsin, and in adjacent townships to our suburban communities, it seems to me without a doubt that if restoration is to occur, that Menominee County as a county unit of government must be abolished, that some form of town government be established to provide, to receive State aid, this sort of thing, in order that the state continues to contribute to those areas particularly that are taxable so that they are not a burden on what takes place after restoration.

Finally, one other issue, then I'll close my remarks.

Secondly, I hope this committee has fully researched the impact it will have on the school district. For instance, I had—and what will happen to the Menominee people for school district purposes—I had a call last Sunday from the man that handles the schoolbuses for the joint district No. 8 and he didn't know whether he should buy some new schoolbuses that were going to be running up to Menominee County or not, because he didn't know whether he would be servicing Menominee County.

This question has to be resolved quickly. It ought to be done factually, with adequate statistics, to assure that what direction the Menominee people are going for school district purposes and how the bill is going to be paid.

Finally, when Menominee County was terminated some 10 years ago, a statistic well in my mind, something like 168 people showed up at the meeting and voted for termination and [illegible] or 6 voted against it: it was something like this.

It constantly, as the State has tried and the good Senator LaFave, my goodness, under his leadership the State has made a tremendous financial commitment trying to make this county succeed. We are constantly thrown up with the fact that those people at that time were not representative of the voice of the Menominee people and it was a very minority element that voted for termination.

Now we are talking about restoration. It seems only prudent, only right that we have a referendum of all the people in Menominee County to get their total voice so that 10 years from now when there might be different leadership in Menominee County, when somebody might not be too happy with the Bureau of Indian Affairs, and that happens from time to time, that at that point we can have a referendum and it won't be 168 people but have all of the people in Menominee County so that at that time we made this decision and we have to stick by the decision.

It seems at some point this flux back and forth has got to cease, and a referendum would solve that. Now, there are some of the present leadership who feel that by demanding a referendum it's reflective upon the leadership abilities and we are saying that they don't speak for the people.

No, I say a referendum will reaffirm their leadership abilities. It will reaffirm that they are stating the position of the people in Menominee County, and I have no doubt that that referendum will pass by an overwhelming margin, but we ought to have it for the record.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you very much, gentlemen, for incisive statements, particularly from the State standpoint.

Assemblyman Grover, do you happen to have a copy of the proposed legislation before you?

Mr. GROVER. Yes, I do.

Mr. MEEDS. May I direct your attention to section 5(a) on page 4, line 14, which provides "the Menominee Restoration Committee under contract of the Secretary shall conduct an election by the secret ballot for the purpose of determining the tribe's Constitution and By-Laws. The Secretary shall enter into such contract with the Menominee Restoration Committee within 90 days of enactment of this Act," and so on, and the provisions for the election of the Menominee Restoration Committee contain another section of the act.

Does that fulfill what you are suggesting with regard to a referendum?

Mr. GROVER. No, I think it assumes, Mr. Chairman, that we have our restoration committee and we are attempting to finalize and reenhance its action. I think the question, and it doesn't deal directly with this, is whether or not we ought to have restoration, period.

I don't think that that gets at it.

Now, the Senator has indicated that the State will finance a referendum of all the people on just the question of restoration. You are assuming here that you have that committee and you're now electing memberships and leaderships.

It seems to me, in fact, to make restoration a fact in that election. Then, I think, for all times, it's good for the Federal records and the State records.

Mr. MEEDS. Senator LaFave.

Mr. LAFAVE. Yes, Mr. Chairman.

Mr. MEEDS. As I understand it, you are suggesting that the State ought to have the option of determining the type of government which would replace the present type of government when legislation is passed.

Mr. LAFAVE. That's correct.

Mr. MEEDS. And I don't want to quibble or to argue with you, but just to be the devil's advocate here for a moment, don't you think that it's the primary responsibility of the Federal Government, assuming this legislation were to pass, to allow the local people to determine the type of government which they wish to have?

Mr. LAFAVE. I could agree with that self-determination policy, that's already been set by our President except for a few facts, Mr. Congressman.

The few facts are that we believe, first, that we have got to guarantee these people a viable society within our sovereign government of the State of Wisconsin. Second, that we don't want two sovereign governments within the borders of what is now considered Menominee County or reservation; under the present status of the bill it could have two sovereign governments, one of the county and the people within the county who are not shareholders, and we could have a second one within the State that we have to work with a viable society.

We have at the present time a one-town, one-county government here, the only one of its kind in the State of Wisconsin. Now, it may be true, as Congressman Grover says, that it probably should be just one town and not limit it to one county government, but at the same time we've got to be careful that we are not creating two sovereignties within the State of Wisconsin under the sovereignty of the State.

It is a touchy situation. Should we be able to have all of the input that is necessary, Mr. Chairman, to this legislation in both committees of the House and the Senate, this probably can be solved. This problem can be solved. But we certainly don't want to go the way the Lac Courte Oreille are, or with a double sovereignty.

Mr. **Meeds.** Would you agree with me that on most Indian reservations in the United States there is that degree of sovereignty which exists on the reservation vis-a-vis both—well, certainly the State government, and in many respects the Federal Government? Do you envision something different in Menominee County?

Mr. **LaFave.** Yes, I do. Yes, I do at this time.

We, of course, have a group of people who live in Menominee County who are at La Motte Lake and Legend Lake, and we want to make sure all of the people here are protected under the act.

We are not just tentatively supporting the restoration for this fact. We want to be sure that the legislation protects all of our people and that no one is put in the position of a double sovereignty. We are a little bit afraid that the sovereignty could exist unless this committee and the Senator's committee checks into this problem very, very carefully.

Mr. **Meeds.** But if I understand you right, you envision a different situation with Menominee County as a reservation, than other reservations in the United States?

Mr. **LaFave.** Only to the point that those lands now held in good faith by peoples other than Menominee—there is a possiblity here to work out some kind of a situation for these people which would not get them a double sovereignty within this county.

Mr. **Meeds.** Well, I have a number of Indian reservations in my congressional district where there are non-Indians who own land; which was allotment land at one time, but now they own this land in fee. We don't have a double sovereignty problem with those people.

Well, there are problems sometimes, obviously, but they abide by the provisions of law on the reservation and the sovereignty, if it can be called total sovereignty of the Indian tribe——

Mr. **LaFave.** Mr. Chairman, it's not my role to ask you a question but I believe it wasn't done under a termination act, and those people received their land in good faith while they were under a reservation. Here we have a different situation, and our situation is that these people received their land in good faith while they were not under reservation status but were terminated people, and it creates a different situation, and I hope it creates a situation in the long run which will be as favorable as those people you represent. That is what we are trying to achieve.

Mr. **Meeds.** You make that distinction then?

Mr. **LaFave.** Yes.

Mr. **Meeds.** Thank you.

The gentleman from New Mexico.

Mr. **Lujan.** Thank you, Mr. Chairman.

I'm wondering what kind of government structure does the study committee recommend. You indicate that we ought to leave it up to the State. I assume the State would follow the recommendations of the study committee.

What sort of a structure do you recommend?

Mr. **LaFave.** Well, we're talking about either Congress directing that these people be apportioned as part of another county or if not for another county, for other governmental services other than those within Menominee County.

They would be taxable, you realize, within Menominee County and would have to have all of the sovereign as part of the reservation in one county. If they were part of this county they would be the only ones that would be taxable because they're the only ones that are taxable as far as the reservation status is concerned, they're nontaxable, so these are the only remaining taxable lands.

Mr. **Lujan.** Are these lands geographically located—I haven't seen the map—where the private parcels of land are, but are they geographically located so that in fact they could be sliced off and made a part of another county?

Mr. **LaFave.** No, they would not be there within the borders of what would be considered Menominee County. Some would be on the edge, which the continuity could be considered part of another county. But I'm sure the Menominee peoples do not want to lose any land that belonged to them before termination, at the same time, and this raises a conflict.

Mr. **Lujan.** You mean even the lands that were sold, not to Indians?

Mr. **LaFave.** They were sold by those in the leadership. Some of the Menominee feel they were not sold in the proper light, under the leadership that was running Menominee Enterprises at that time. They now have different leaders.

Mr. **Lujan.** What would happen to those lands if I, for example, came and bought a piece of property and they now contended I didn't buy it legally? What is intended for those, to buy them back out?

Mr. **LaFave.** That's a question that would have to be solved either by Congress or by the State. It's in the courts at the present time and some of this action is still in the courts. I wonder if it will ever be solved unless Congress solves it.

I will admit, though, that the State will try to solve it if it's your wisdom, and I know Congress can override our constitution if it's your wisdom that you want to solve this problem. We just want to bring it to your attention.

Mr. **Grover**. Could I say something?

Mr. **Lujan**. Yes.

Mr. **Grover**. If none of these lands had been sold I would be advocating here today that restoration restore Menominee County to its previous reservation status where it had seven townships with certain governmental services, some from Shawano County, some from other counties, just as it was before termination.

In light of the fact that these lands have been sold, I suppose there are some types of governmental services that have to be rendered these and therefore it seems to me we have to have some unit of government over probably the whole area. I could envision that we could just retain the town of Menominee and there are State aids on a per capita basis to townships in our State, road aids would come back, and therefore these kinds of minimum services that townships do continue to provide to Wisconsin could continue to be provided to those taxable lands.

It would seem to me that the nontaxable lands must be serviced by the Federal Government under restoration. In fact we do not continue to maintain an inefficient economic government within the county of 2,700 people with $16 million worth of evaluation with all the minimum requirements maintained, and yet we do solve the problem of providing services for the taxable lands that would continue to retain an entity within this reservation structure. And that, I think is what the Senator is asking for, it's kind of the State's option to look at that.

Mr. **Lujan**. One final question. Do you also feel, Senator, that if a referendum were held today as you are proposing, that it would pass overwhelmingly as Mr. Grover just said?

Mr. **LaFave**. I would like to answer that question in two ways, if you would allow me, Mr. Lujan.

Mr. **Meeds**. That's a political answer.

[General laughter.]

Mr. **LaFave**. I was opposed to the termination of the Menominees in 1954, 1955, very bitterly. At that time I wanted a better referendum.

I did not foresee that the Federal Government did not come through and at that time I felt that the people would not have gone for determination that is categorized by 4½ hours speech in the senate, on the floor of the senate, and I feel the same way today, that these people would want to go back and want restoration if the referendum is conducted as it should be.

Mr. **Lujan**. Thank you.

Mr. **Meeds**. I understand that we've been joined by Senator Chilsen.

Would you like to come forward, sir? Do you have any statement for the record, sir?

STATEMENT OF HON. WALTER JOHN CHILSEN, MEMBER OF THE STATE SENATE OF THE STATE OF WISCONSIN

Mr. **Chilsen**. Yes, I do.

Mr. **Meeds**. Would you gentlemen please stay.

Do you have a copy of your statement?

Mr. **Chilsen**. I'm sorry, I do not. My secretary was ill.

I'll have to forward that to your assistant.

Mr. **Meeds**. Well, we will take your testimony extemporaneously.

Mr. **Chilsen**. I have a rough draft.

Mr. **Meeds**. Please proceed.

Mr. **Chilsen**. Thank you very much.

I am State Senator Walter John Chilsen, representing the 29th district, which includes Menominee County.

I am not a member of the Menominee Indian Study Committee.

I appear before you today for two purposes: To support the reversal of termination with reservations, and I don't intend to use a pun there. Also, to caution you to not allow a repeat of some of the tragic type of errors that I think were made during the termination proceedings from 1954 through 1961. Termination, as Senator LaFave has just indicated, as was performed, I think was a tragic mistake.

Reversal of termination should not become another mistake in reverse. The effects of that legislation are still with us and I apologize if I'm somewhat redundant from what Messrs. Grover and LaFave said, but the county chapter was created in chapter 259 in the laws of 1959 and has never become a fully organized county.

During the time that the office still existed in Menominee County, it did not, for instance, have its own school superintendent. To this date it shares the judicial system of Shawano County; a county with 2,600 people just has not been able to provide the tax base to support the full range of services that we normally take for granted.

It will be an act of Congress which returns the Menominee people to a tribal status, but it will be the State which must work out the problems of what now to do with the governmental apparatus that is Menominee County.

I think the State must be allowed sufficient time to work out a wise arrangement and I would trust that we at the State level could work in close coordination with the Federal Government as well.

Senator Proxmire in recent remarks said essentially that same thing. Menominee County and its government were established by the Wisconsin State Legislature. This bill, the Federal restoration bill, will not alter or abolish the county structure.

The State legislature will have to decide in the future what action, if any, to take in that regard, anticipating the Federal legislation, Senate bill 892 which has been introduced by the two gentlemen to my right, would provide a referendum. That's assembly bill 892, would provide a referendum for the residents of the county, asking them whether they would rather have tribal status restored, or remain a county, or reject tribal status and remain a county.

While the bill at first may seem harsh in its either-or position, I would ask you to consider what the Federal legislation would do to the tax base now supporting Menominee County services.

Section 6(d) of the proposed Federal legislation offered in May of this year, has a 2-year delay, effective date would say that "all assets transferred under this section to be held in trust by the Federal Government for the Menominee Tribe shall, as of the date of transfer, be exempt from all local, State, and Federal taxation."

Assembly bill 892 however, is an exercise in futility, the referendum alternative under the Federal bill is just not available. The Federal law does not ask whether the tribe will accept or reject the reversal; as a Federal law it is the ruling authority. I believe that Congressman Froehlich is aware of that difficulty. He says, "In my mind the ultimate solution to the problem is a restoration of the town and county lines that existed before termination." He continues, "because I believe the vital interest of all concerned parties will be served by discontinuing the life of Menominee County."

He said that he would attempt to persuade the Interior Committee to reflect that view in the committee's final bill. Because of the 2-year delay built into the Federal law and the tax exempt status of the lands during that period, section 6E is the most significant for the State of Wisconsin.

It states:

> The Secretary of the Interior and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

I understand that the head of our legislative reference bureau has suggested an additional subsection—that is Mr. Rupert Theobald has suggested an additional subsection—that would provide the Wisconsin Legislature with the necessary constitutional flexibility to implement subsection E. The reasons for the constitutional difficulty under our Wisconsin State constitution are discussed in the analysis to assembly bill 892.

Have you discussed that? Would you want me to?

Mr. MEEDS. Just briefly, sir.

Mr. CHILSEN. Well, it refers to section 13, article 13, section 7, prohibiting the dividing of a county containing less than 900 square miles and Menominee County, of course, is only 365 square miles, and the flexibility suggested by Mr. Theobald, as I understand it, would allow the continuation of Menominee County, or as Congressman Froehlich suggested, allow dividing it along the county lines that existed before termination.

The county could be abolished; the town retained. And that town could then be attached to one of the adjacent counties. Other alternatives might also present themselves.

My final point begins with reference to remarks by Senator Nelson. It was pointed out to me in correspondence with Mr. Theobald, and again I'll ask Senator LaFave, have you pointed out the apparent conflict in the amount of Federal funds?

Mr. LAFAVE. No, I have not.

Mr. CHILSEN. Well, Senator Nelson has said that since 1961 when termination took effect, the Federal Government has spent more than the $19 million in regular and special grants for health care, education and welfare, highways, housing, property tax relief, sewer and sanitation facilities, shared taxes, and other purposes. In 1971 the Federal Government spent more than $2,444,000 in Menominee County. The Bureau of Indian Affairs has estimated that it will cost approximately $1,415,000 per year to restore the BIA authorized services to the Menominee.

The Public Health Service estimates that it will cost approximately $638,000 annually to provide adequate health care for the Menominee.

Thus, the total amount of restoring the Menominee to their federally recognized status would be $2,053,000 or $391,000 less than the Federal Government spent in Menominee County in fiscal year 1971. That is a quote from Senator Nelson.

Now, part of that statement does seem to be in error. The Federal Government, during the past decade, did not by itself spend "more than $19 million in regular and special grants" to sustain the Menominee assistance. The Menominee Indians, from the standpoint of the tribe, which needed the assistance, the source of funds was of little consequence as long as the funds were available. But since I'm talking about the viewpoint of the Wisconsin Legislature it should be made clear that the total—and I have some statistical data compiled by Senator LaFave's assistant—$19,198,604.72 grant money through June 30 of 1971. The state of Wisconsin contributed $7,496,000 including $2,674,000 due to special legislation or programs and $4,821,000 in regular aids and grants and the Federal Government contributed $11,702,000 including $9,226,000 due to special legislational programs, $2,476,000 in regular aids and grants.

In detail, Senator LaFave's assistant's data indicates that the $9.2 million included $2.4 million for special education aids because all of Menominee County is part of joint school district No. 8 with Shawano County. The amount of regular school aids attributable to Menominee children from Menominee County could not be ascertained and is not reflected in the $2.4 million.

Continuing, $0.7 million for health, $2.5 million for highways, $2.4 million for housing, $0.6 million for property tax relief, $0.9 million for sewers and sanitation, $0.3 million for shared taxes, $5.6 million for welfare, $3.8 million for miscellaneous.

As the functional breakdown indicates, some of these governmental costs are likely to continue as non-Federal costs even after the Menominee Indian reservation is restored.

I hope, gentlemen, I have shown you some of the indications that termination in reverse could present some real problems for the Menominee and for the State of Wisconsin, and I would hope that there would be good rapport and coordination between the Congress and the Wisconsin Legislature.

Mr. MEEDS. But as I understand it, Senator Chilsen, you are suggesting that we go forward with the restoration, provided the Federal Government is willing to bear its responsibilities in paying for some of these services which are now being paid for by the State and by other means?

Mr. CHILSEN. And provided there are not complications that become evident that we don't need more time to work out. If we need more than 2 years, then the State of Wisconsin should be given more than 2 years.

Mr. MEEDS. I'd like to ask all of you gentlemen, if I may, what special rights a landowner has, white or Indian landowner as far as that's concerned.

What special right does that person get by simply owning land?

Mr. LaFave. I'll try to answer the question.

The special rights that were given to Legend Lake property owners were fishing and hunting rights, fishing rights on the Menominee lands.

This was given with their deed on Legend Lake. This doesn't mean that I approve of it. It was done by the Menominee Enterprise at that time.

These are the special rights that they acquired.

Mr. Meeds. Any other special rights that anyone acquires?

Mr. LaFave. Not that I know of.

Mr. Meeds. Simply by virtue of owning property he doesn't have more votes than anybody else does or any more right to police protection or fire protection, is that correct?

Mr. LaFave. Yes.

Mr. Meeds. Now, if the legislation protected the special rights of those people in that land, would you gentlemen have any objection to restoration to tribal government of the other accounterments of self-government?

Mr. LaFave. I personally have no objection to tribal government of any kind, whether we go back under restoration to tribal government or to the kind of government they had here. I think that is a self-determination by the Menominees not for me to expound on or say what they should have.

I try to follow the dictates of the State and try to be as helpful to the Menominees as I can. I've never tried to dictate to them and I wouldn't want to at this time, though I've tried my best to be helpful even though sometimes it is controversial.

Mr. Meeds. I'm sure you'd all agree with me that as citizens of the United States they have certain protective rights, correct?

Mr. LaFave. That's correct.

Mr. Meeds. All of the rights that any other citizen has, but there are not very many special rights just because they own property in Menominee County, are there?

Mr. LaFave. No, there isn't, except that these fishing rights could become a burden.

Mr. Meeds. I understand that, and I certainly would agree with you that that is a special right.

Can you think of any other special rights now that we're dealing with them simply from an ownership of property?

Mr. LaFave. None that I know of.

Mr. Meeds. You, Assemblyman Grover?

Mr. Grover. Well, I'm trying to search in the depths of my mind and come to the ultimate—what you were saying by your questions, I think, if you're saying that Menominee County tribal leadership could govern the area, period.

I envision that, but it seems to me that the State also has some types of responsibilities in that they ought to probably also be a town form of government up here in order that we can continue to provide aids for the nontaxable lands. Obviously, that leadership will probably be 100 percent controlled by Menominee memberships.

Mr. Meeds. Now, as I recall, when the Termination Act, H.R.

2828 was passed, it took special implementing legislation by the State to establish a county and to establish local city government and so on. Right?

Mr. **Grover.** Right.

Mr. **Meeds.** And there was cooperation between the State and local government at that time.

I would certainly envision that we would have the same type of cooperation in the event that this legislation passed and some other type of situation were to prevail. We would certainly look forward to working with you gentlemen very closely in doing that.

Senator Chilsen, you had a further comment?

Mr. **Chilsen.** I want to make some further comments on the questions that you were asking before about special rights, for some special privileges that might be denied, the right to vote for a town chairman or be a town chairman, be a town official, be a county official and serve in county government, would be denied any resident of Menominee County if the county and town government is destroyed.

Now, some of that of course is unavoidable, but it is a special privilege that a normal citizen has. That will be taken away from these people.

Mr. **Meeds.** That, then, might constitute a violation of their constitutional rights and as such could not be done?

Mr. **Chilsen.** It's a possibility, I suppose.

Mr. **Meeds.** Then we'll have to be very aware of that.

Mr. **LaFave.** Mr. Chairman, that's why I mentioned sovereignty.

Mr. **Meeds.** The gentleman from New Mexico.

Mr. **Lujan.** Yes.

While there may not be many rights lost, or we haven't pointed out any except the fishing rights, there are certainly benefits that the Menominee Tribe would be entitled to: Education, medical facilities, and that sort of thing.

I wonder if, in the event that this legislation were enacted, could those responsibilities that government normally has to an individual, specifically, education, could they not be very well handled by going all the way back to the original statute?

I understand Menominee County was two counties before. In that way, perhaps, these services could be furnished.

Mr. **Grover.** It receives services from two counties. I believe it constituted seven townships, three of them were serviced by Oconto County for certain purposes and three by Shawano County for certain purposes. But I have no objection to that complete and total restoration to the status which previously prevailed with the exception that you do have that land sold and a different ingredient there, and maybe the State has some commitment to assist the people that will be Menominee Reservation in providing roads and these types of things that might be a State responsibility, continuing.

Mr. **Lujan.** Recognizing that this is a bad question I'll ask it anyway because even if one person is denied any rights that's a bad deal, but how many people are we talking about?

Mr. **LaFave.** I do not have the figures.

Mr. **Lujan.** Just a rough estimate.

Mr. **LaFave**. The number of people that own lands that aren't living there as residents, most of them are summer homes, Mr. Chairman.

Most of the people that bought in good faith are summer residents, but there are some full-time, and I don't know the exact number but we will have that for the committee, actual summer residents, before we leave here today.

Mr. **Lujan**. In the interest of time, let me——

Mr. **LaFave**. I haven't answered your other question yet.

Going back to the original status of two-county government, you are precluding self determination that you are supporting, because if we are going back to that without a referedum of the Menominee people so that they want to be split into two counties, we aren't going back to self determination under the President's policy.

I believe in order to answer that question we would have to have the Menominees answering the question somewhere along the line and not the Legislative Committee, because we would be setting aside their self determination of what three counties should go to Oconto and seven to Shawano, and then again they're a majority within a minority, the very same situation as before.

If I may explain this a little further, in the background, in 1954, 1955, and before, the Menominees never could acquire leadership within the counties they were in because they were such a minority and they always felt they were such a minority, and from this feeling has arisen in the past a feeling of separation from our society, and they never had a chance for any self-determination under that kind of policy, so this is a question which you will have to solve under the President's edict of self-determination. That's going to be a hard one to solve.

Mr. **Lujan**. You are interpreting, at least in my opinion, self determination down to a very, very narrow point. As to the mechanics——

Mr. **LaFave**. That's true, but now that these people have had self determination as a county you are taking it away from them. If they had never had it, then they wouldn't feel—I would feel that I wasn't right in my position but I feel that now they have had self-determination as a county; they have leaders. They know what it is. And I don't feel they would feel that they would be in society to have a chance to be on the county board or in the governments of two counties and separated into two counties.

This comes from my historic work with these people. It can be an error on my part, but this is what I have felt over the years.

Mr. **Grover**. If we have the referendum and we have self determination and they vote for restoration it would seem to me that restoration with its implications would mean that we have a reservation supplanting the county unit of government and that, fundamentally, if we just had a town unit of government to provide all services they would continue to hold the effective leadership.

Mr. **Lujan**. We'll leave that debate for the halls of the Wisconsin Capitol.

One real quick question. Do any of you three gentlemen, or these people who advise you, know how much Menominee County or any of the subunits of government received in revenue-sharing funds?

Mr. LaFave. Revenue sharing? I think it was $69,000. It was $6,700 and we got a supplemental check for $45,000, $47,000—I don't remember the figures but it's close to $62,000, somewhere in that range.

Mr. Lujan. Thank you.

Mr. Meeds. Again, thank you, gentlemen, all three of you, very much, and we look forward to working with you.

Mr. LaFave. And again I am available for the committee at any time the Senate or the assembly of Congress, for the House, should you need my assistance or any of my staff or any reports, we will be happy to furnish them too you.

Mr. Meeds. Thank you very much.

We're going to have a little change in schedule so that they will have a full opportunity to present their testimony prior to lunch.

We're now going to call upon the Menominee Enterprises, Inc. board and the Menominee Common Stock and Voting Trust, as represented by Ms. Ada Deer, chairperson of the Voting Trust.

Will she be accompanied by Carol Dodge and Delores Boyd?

Very well. They will be accompanied by Mr. Preloznik who is the attorney for the Common Stock and Voting Trust, and the Menominee Enterprises, Inc. board will be represented by Ms. Sylvia Wilber who is chairperson of that group, accompanied by a Native American Rights Fund attorney, Mr. Charles Wilkinson. A general session in which other people will be testifying will be put over until this session.

The hearing will be in order.

It's a pleasure, Ms. Deer, on the part of the subcommittee to welcome you to these hearings which you were so instrumental in achieving. If the people here do not know it, I am going to tell them that you certainly have been a constant aid to the committee, sometimes even a little bit too constant, in achieving the hearings which we're having today.

You have certainly been very helpful in setting up these hearings and in working with this legislation in the U.S. Congress. I want to, on behalf of the subcommittee, express our gratitude for all of that help and indicate that we feel you are certainly one of the articulate, capable spokesmen in this entire issue.

I would like to have you identify yourselves when you speak for the record. We have at the witness table Ms. Deer, Ms. Sylvia Wilber, Mr. Preloznik, and Mr. Wilkinson.

Please proceed in the order that you wish.

STATEMENT OF ADA DEER, CHAIRPERSON, MENOMINEE VOTING TRUST; ACCOMPANIED BY JOSEPH PRELOZNIK, SYLVIA WILBER, AND CHARLES WILKINSON, NATIVE AMERICAN RIGHTS FUND ATTORNEY

Ms. Deer. Chairman Meeds, Congressman Lujan, guests of the Menominees and fellow Menominees, on June 20, 1953, the late Senator Arthur Watkins spoke for 45 minutes to our general council. He told us that Congress had decided on terminating us, and that at most we could have 3 years before our "affairs would be turned over to us."

Today, 20 years later, we have a congressional committee meeting on Menominee land, to consider reversing that termination. This is the first congressional hearing ever held in the land of the Menominee.

I would like to thank Congressman Meeds for holding his first field hearing as chairman of the House Subcommittee for Indian Affairs with the Menominee people. We are honored to be such a high priority on his agenda.

On behalf of the Menominee people, I would also like to deeply thank Congressman Meeds and Congressman Lujan, as well as our other honored guests, for giving up a Memorial Day weekend with their families to make this hearing possible.

We are deeply grateful to the seven Wisconsin Congressmen and our two Senators for sponsoring the Menominee Restoration Act in Congress.

I especially wish to commend our former Congressman, David Obey, for his long standing commitment to restoration for the Menominees.

He has been joined by our new Congressman, Harold Froehlich, to introduce the Restoration Act in the House on May 2, 1973.

This hearing is the culmination of the efforts of all these people and many more too numerous to name. It is also due to the efforts and perseverance of the Menominee people, who have suffered the effects of termination.

Termination represented a gigantic and revolutionary forced change in the traditional Menominee way of life. Congress expected us to replace our Indian way of life with a complicated corporate style of living. Congress expected immediate Menominee assimilation of non-Indian culture, values, and life styles.

The truth is that we Menominees have never wanted such changes imposed upon us, any more than white people would want an Indian way of life imposed upon them.

Today and tomorrow, we want to show you the specific disaster of termination with regard to the Menominee people. We will tell you of the disastrous effects—poverty, loss of assets, prevention of self-government, and threat to our very identity—which termination has brought upon us, the Menominees.

The immediate effect of termination on our tribe was the loss of most of our 100-year-old treaty rights, protections, and services. No amount of explanation or imagination prior to termination could have prepared us for the shock of what these losses have meant.

Congress withdrew its trusteeship of our lands, transferring to Menominee Enterprises Inc. the responsibility for protecting those lands, our greatest assets. As we shall explain, far from being able to preserve our land, land was being sold to non-Menominee, termination did to us what allotment has done to other Indian tribes.

Congress also extinguished our ancient system of tribal ownership of land under which no individual had separate title to his home and transferred title to MEI. Consequently, we individual Menominee suddenly discovered that we would be forced to buy from MEI the land which had always been considered our own, and to pay for title to our homesites. Thus began the tragic process of our corporation feeding off our people.

We Menominee lost our right of tax exemption. Both MEI and individual Menominee found themselves saddled with tax burdens particularly crushing to a small tribe struggling to develop economically.

BIA health, education, and utility services ceased. We lost all medical, and dental care within the Reservation. Both our reservation school and hospital were closed because they failed to meet State standards. Individual Menominee were forced to pay for electricity and water that they previously received at no cost. Our county found it had to renovate at high cost its substandard sewerage system.

Finally, with termination and the closing of our tribal rolls, our children born since 1954 have been legally deprived of their birthright as Menominee Indians. Like all other Menominee, they have lost their entitlement to U.S. Government benefits and services to Indians. These children may inherit only their parents' portion of Menominee assets—which means that if the parents' share has been lost or dissipated, their children lose forever any chance to share in tribal assets. The only major Menominee treaty right which the government has allowed us to retain has been our hunting and fishing right. Wisconsin had tried to deprive us of this right, but in 1968, after costly litigation, the U.S. Supreme Court ruled that this treaty right had survived termination. This decision raised the question as to whether other rights have also survived our termination.

We hope you can appreciate the magnitude of these treaty losses to us. Visualize a situation similar to ours happening in one of your home States. Imagine the outrage of the people in one of your own communities if Congress should attempt to terminate their basic property, inheritance and civil rights.

We believe that termination has produced three major long-range effects on the Menominee people, each one a disaster in itself.

First, termination has transferred Menominee County into a "pocket of poverty" kept from total ruin only by massive transfusions of special Federal and State aid, welfare payments, and OEO spending.

Second, termination has forced our community to sell its assets. Consequently, both tribal and individual assets were lost at an incredible rate.

Third, the mechanics of the termination plan has denied the Menominee people a democracy.

Today I would like to relate to you the first of these, the poverty of the Menominee as a result of termination. Our people's far-reaching poverty, which extends beyond mere income levels to practically all other areas of life.

Today Menominee County is the poorest county in Wisconsin and one of the poorest in the Nation. It has the highest birthrate in the State and ranks at or near the bottom of Wisconsin counties in income, housing, property value, education, employment, sanitation, and health. The most recent figures available, 1970, show that the annual income of nearly 40 percent of our families falls below the Federal poverty level of $3,000. The per capita annual income of our wage earners in 1970 was estimated at $1,028, the lowest in the State.

Our county does not have diversified industry. Over 70 percent of those employed work in our MEI lumber industry. In 1970, 11 percent of our people were unemployed, the highest unemployment rate in the State.

This lack of employement opportunities, combined with our high birthrate, forced nearly 50 percent of our county residents to go on welfare in 1968. Welfare costs in the county for 1968 were over $766,000 and our per capital welfare payment was the highest in the State. The majority of Menominees who have left our county to seek work in the cities have become trapped in poverty there also.

With the closing of the BIA hospital, we lost most of our health services, and most Menominee continue to suffer from lack of medical care. There have been no full-time doctors or dentists in Menominee County since termination, until July of 1970 when one doctor became available through the National Medical Corps. Shortly after termination, our people were stricken by a TB epidemic which caused great suffering and hardship because of the lack of local medical facilities. Consequently, the State and county had to spend nearly $200,000 in order to bring the epidemic under control. Our people continue to fear the possible recurrence of other such disasters. We feel helpless because resources are not available to provide adequate medical facilities.

Education in Menominee County—which theoretically should offer our people a hope of future advancement—has also suffered because of termination. The loss of the BIA school required that our youth be sent to Shawano County for their high school training. The Shawano school system has assumed that Menominee children possess the same cultural and historical background as a middle-class white community. Consequently, the school system has shown insensitivity to the cultural background and the special needs of our children. In many cases, our children find themselves objects of rejection and discrimination. Since 1961, our high school dropout rates have increased substantially, absenteeism has soared, and our children apparently are suffering a downward trend in achievement. Comparisons based on educational achievement tests show that Menominee children fall significantly below district and national norms.

How did termination bring our poverty about?

We can answer this question from two viewpoints: economic and cultural.

First, from the economic viewpoint: In 1954 we Menominee seemed prosperous in comparison to other tribes, but deeper examination of our situation would have revealed that our resources were not sufficient for us to finance a county form of government. Our once extensive cash assets were largely eaten up by the expense of termination. The termination act required that MEI lumber our forest by continuous yield. This has meant that year after only a limited amount of lumber could be taken, and thus, only a limited amount of income could be derived by MEI. Yet after termination became effective, MEI faced the financial burdens of providing employment to the Menominee people and operating a county government. Confronted with inadequate reserves and an inadequate tax base, MEI turned to the first of several drastic measures. To maximize the efficiency of its operation, MEI was forced to reduce its workforce, which aggravated an already severe unemployment problem.

The financial strain imposed on individual Menominees was equally devastating. We found ourselves faced with new and heavy expenses, including taxes, utility costs and, worst of all, land payments. These financial burdens, combined with the lack of jobs, resulted in greater poverty than ever before. Thus, termination has weighed down our small, poor community and our single industry with crushing new expenses impossible to meet—all done in the apparent expectation that we somehow make it economically.

The only factor which has prevented us and MEI from complete collapse has been the huge stop-gap financial assistance that the Federal and State government have given us. Since 1961 almost $20 million in special Federal and State grants and aids has been expended in Menominee County. Since 1965 nearly $1,500,000 in OEO money has also been spent within the county.

These payments are only a temporary solution, having been used only to pay for on-going community services and to keep our people from starvation. This special funding does absolutely nothing to attack the basic cause of Menominee poverty: our lack of diversified industry, our dearth of economic opportunities, our negligible investment capital, and our inadequate tax base.

From the cultural viewpoint: regardless of how much money is spent in Menominee County, the essential problem will remain. The Government is asking us to make a success of the termination policy which we have bitterly opposed from the start. We are expected to give up our Indianness and adopt a way of life none of us want. Such an experiment as this can never work. It will only continue to impoverish our people.

Congress did not conduct careful and extensive studies on the possible effects of such unprecedented legislation. Congress did not seek to discover our true feeling about termination; instead termination was imposed upon us.

To Menominee, the real meaning of the termination period is this: Congress decided unilaterally to end its treaty obligations toward us, and attempted to thrust us unprepared and uninformed into a way of life completely unacceptable to us. The effects of this transition have been tragic and disastrous.

Our community has been physically divided by the sale of our heart-land to non-Indians. Moreover, the Menominee cannot escape forever the destructive psychological effects of living in destitution. The pride and self-image of the Menominee is threatened by poverty and lack of self-determination.

President Nixon has called termination "Morally and legally unacceptable because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups* * *"

The 1972 Democratic platform "Strongly opposed the policy of termination," and the Republic platform promised "A complete and sympathetic examination" of the severe problems facing the Menominee Indians in seeking to have Federal recognition restored to (our) tribe* * *"

On May 21, 1973, the Menominee Common Stock and Voting Trust approved the January 13, 1973, draft of the Menominee restoration bill. We do not approve of some of the amendments in the bill as introduced in Congress. We especially object to the amendment which provides for a 2-year waiting period for our lands to return to tax-exempt status. Our corporation and our people need this relief now.

We also want our bill to include a provision prohibiting the sale of tribal land. Our assets have been depleted enough.

We would strongly request that this committee consider our objections and approve this bill in accordance with the wishes of the Menominee people.

We want Federal protection not Federal domination. The Menominee Restoration Act will be the dawn of a new partnership with the Government—self-determination without termination.

Mr. MEEDS. Thank you very much for a very eloquent statement, Ms. Deer.

Ms. Wilber, will you please proceed. We will take your testimony. You may read it into the record or summarize it, whichever you wish, and then we will ask both of you questions.

STATEMENT OF SYLVIA WILBER, CHAIRWOMAN, MENOMINEE ENTERPRISES, INC., BOARD OF DIRECTORS

Ms. WILBER. I am Sylvia Wilber, a Menominee and chairwoman of the Menominee Enterprises Board of Directors.

I am happy to have this chance to testify in favor of the Menominee Restoration Act now introduced in Congress.

I would like at this time to convey my opposition to section 6 of the bill which delays the trust status of Menominee-owned lands for a period of 2 years. I also would like to see the inclusion in the bill which specifically states that the tribe cannot sell any of their land. I believe that this is the only way Menominees can rest assured that their land is safe from dissipation.

Since 1854 the Menominees lived on this land as wards of the Government, having decisions made for them. The tragic experiment to assimilate the Menominee was forced on our tribe 100 years later in 1954. We were unable to comprehend the total subject. This incomprehension prevented Menominees from taking any meaningful part in the development of our own termination plan.

The corporate-county situation which was established by the termination plan was set up in such a way that denied us a voice in our own affairs. Two complicated trust structures were incorporated into the termination plan. One was the Menominee Common Stock and Voting Trust, which consisted of seven members and acquired the voting rights of all shareholders. There were only two things allowed us Menominees under this trust plan, (1) we were allowed to vote for one trustee each year, and (2) at 10 year intervals we Menominee, by obtaining 50 percent of all outstanding shares, could vote to abolish this trust system. Such a chance was allowed us in 1971.

In 1970 a grassroots organization, DRUMS (Determination of Rights and Unity of Menominee Shareholders) was formed. This

Menominee movement was dedicated to the preservation of the Menominee Tribe. DRUMS attempted to rid the Menominees of this outright denial of self government. Despite the fact that the majority of Menominees who participated in the 1971 election voted to abolish the trust, it was allowed to continue because a majority vote of the outstanding shares was required.

Thus, any Menominee not voting was, in effect, counted as being in favor of continuance of the trust. Since many Menominee were scattered all over the country and were unreachable, and since many Menominee do not understand all the legal complications involved in exercising their voting rights, and above all, since the First Wisconsin Assistance Trust "bloc-voted" 48,000 shares to continue the trust, securing such an absolute majority was a next-to-impossible effort. However, a hopeful democratic development has been the enlargement of the voting trust to eleven members, and the election to it of a majority of DRUMS members.

The most blatant denial of democracy which the Menominee have suffered is the imposition of the First Wisconsin Trust Co., the second trust system forced on us by termination, which managed and voted the trust certificates of minors and illegally judged incompetent Menominees. For all other corporate systems, the parents of the children holding stocks, are allowed to vote their shares. But this did not happen with the Menominees. The Menominee were treated differently and for 10 years we were directly controlled by the bloc-vote of a non-Menominee who voted in direct opposition to the adult Menominee vote at our annual election for trustees.

As Menominees have been coming of age, the power of this trust has declined, but since its inception, the assistance trust has wielded an enormous voting power, completely disproportionate to the number of trust certificates it holds. The history of voting for trustees to the voting trust at annual meetings of MEI reveals that from 1961 to 1968, the assistance trust has in every election voted from 80 percent to 92 percent of the total votes cast. Because the assistance trust has dominated the election of the voting trustees, in effect, it has indirectly dominated the affairs of MEI. The low percentage of Menominee votes cast in these trustee elections has resulted from many factors: the lack of adequate notice of these meetings by MEI, the increasing dispersal of Menominee around the country, the continuing lack of understanding by many Menominee of these intricate corporate practices, and the decision by many of our people to boycott elections which they have regarded as essentially undemocratic.

Another way in which self-government has been kept from us concerns the corporate rules regarding sale of our land. Article XII of the MEI articles of incorporation requires that in order to sell, exchange, assign, convey, or otherwise transfer all or any portion of the real property which it owns, MEI must secure prior approval by the affirmative vote of the holders of not less than two-thirds of the outstanding shares of stock, entitled to vote thereon. If this article had been followed by MEI, it would never have received the approval of the Menominee people to sell our land in the Legend Lake project. But the seven members of the voting trust interpreted this article to require only their two-thirds approval. Consequently, the voting trust approved this sale of land, and again, we Menominee people were denied a voice in one of the most critical decisions ever undertaken in our history. Throughout history, the land has been of utmost concern to the Menominee. The selling of the land tore at the heart of the Menominee people.

Menominee Enterprises, Inc., like any other corporation, has the commitment to show a profit to its shareholders. However, MEI is unique in that it also has a social commitment to its shareholders, the Menominee people. MEI must manage the tribal assets. We must protect the virgin beauty of our timber lands. We must develop new industry and provide as many jobs as practicable. In short, we must function as a tribal entity and a profit conscious corporation, and these functions are becoming more incompatible as time goes on. This is the situation that plagues the Menominee, and specifically the DRUMS members elected to MEI's board of directors.

Serious unemployment conditions face our community. Only 46 percent of our Indians age 16 to 64 are in the labor force. This percentage is sure to rise with the withdrawal of the Community action programs. Of those in the labor force, 26 percent are unemployed, this percentage rises to 40 percent at times because of the seasonal work provided with the logging industry. Directly attributable to this is the fact that MEI necessarily had to economize somewhat and reduce by approximately one-fourth their labor force over the past 10 years. In 1961, MEI employed 236 men compared to 175 in 1973.

Our present situation severely limits the amount of profit that MEI can realize. The Termination Act contained provisions for protection of our forests on a sustained yield basis. The annual harvest of MEI is restricted to 18 million board-feet of lumber. Our lumber mill has the capability of processing 30 million board-feet of lumber and our operating costs reflect that capability. MEI experienced losses in the years of 1962, 1963, and 1964. The corporation showed a profit in the years 1965 to 1970. This profit resulted in an increased cut of timber to 30 million board feet and 25 million board feet in the first 2 years and the selling of our land the last 3 years. Profits fell off sharply in 1971 and 1972 MEI had a net profit of zero. We were also unable to cover the full income bond payment to the bondholders in 1972. The income bond payment is another financial burden placed upon Menominee Enterprises by the Termination Act. This results in a cost of $350,000 before any profits are realized. Add MEI property tax to this and our corporation must make almost $1 million before it can show a profit.

Menominee Enterprises, Inc., our tribal corporation established to control our assets, was forced to sell part of our homeland in order to raise badly needed cash. This represents the most dangerous threat to the continued existence of our tribe. Selling capital assets to raise cash provides no long-term solution to financial problems.

In 1968, MEI launched its "Lakes of the Menominee" development known as Legend Lake. A partnership with N. E. Isaacson, a Wisconsin land developer, was formed. MEI sold 5,170 acres of land for development with profits to be split 50/50 after expenses and a 5 percent sales commission for Isaacson. A 1,340 acre lake was planned, creating 86 miles of shoreline. Sale of Legend Lake's 2,600 lots was designed to enlarge the county's tax base to $45 million, easing MEI's tax burden.

The Legend Lake venture has been a questionable economic success. The percentage of county tax paid by MEI did drop from 90 percent in 1964 to only 55 percent in 1971. However, in 1971 when all lake development was assigned 36 percent of the property tax burden the assessed value of the county had risen from $17 million in 1961 to $32 million in 1972. Even though MEI was paying only 55 percent of the total tax load, real dollars paid in assessment in 1972 has risen above the 1961 level due to increased valuation of all land within the county. Also, taxes have risen because of county services required by the new residents of Legend Lakes: Police, fire, and snow removal. Because of the nonexistent sewage facilities at the Legend Lake project and the porous sand condition in the area, we anticipate the need soon as such a sewage system replacing the septic systems now in existence.

The efforts involved in establishing the so-called economic development zone by our predecessors on the board of directors and board of trustees absorbed valuable time from the heart of our economy, our tribal mill. Consequently we are trying with meager profits at present to update our mill. One major chore is to replace the wiring in our mill, some of which has been there since 1927. Also, we face the necessity of installing water pipes with the proper size to conform with our insurance code. We must do this to try to reduce our insurance premium which has this year increased by 50 percent. Our mill operations have also been hampered in the past by faulty boilers—it was only recently that MEI invested $600,000 to install new boilers and enable our mill to operate closer to maximum steam capacity.

Unless the Menominee people are restored to federally protected tribal status now, we will soon have to face up to a terrible decision. Shall we concentrate on our economic obligations to our shareholders, or on our social obligations to our people? Another problem that hanges heavily on our hearts is that in January 1974, MEI's stocks will become negotiable on the open market, according to termination law. When that happens, control of MEI and our land can easily pass out of our hands of the Menominee people. MEI, if not financially solvent, will be unable to buy the shares of individual Menominees, and the State of Wisconsin or individuals of the non-Menominee public will buy into our Menominee assets.

It would undoubtedly be a great financial burden on MEI to purchase stocks in the near future. Consequently, there is a serious danger that control of the corporation would not remain in the hands of the Menominees but would be transferred to the State of Wisconsin or some third party or parties.

If the stocks become negotiable, many Menominees may be forced to sell their stock in order to receive welfare or public assistance. Under the present eligibility requirements, recipients for Old Age and Blind Aid assistance are not allowed more than $750 in liquid assets and those receiving Aid to Dependent Children cannot have more than $500 in liquid assets. Presently, because the stocks are not negotiable, the stocks are not included when determining eligibility for assistance. If the value of the stock and other liquid assets exceed the eligibility requirements, than Menominees will be required to sell all of part of this stock or dispose of their assets in order to receive aid. Since the right to vote in shareholder meetings for trustees is obtained through ownership of the stock, partial control of the corporation would be held by non-Menominees.

On one hand, the corporation must necessarily become more aware of the economic pressures in order to survive. To do this would mean developing our nonproductive forest land to ease our tax burden and forsake sustained-yield forestry, to allow our mill to operate at full capacity. If we did this, our forest would soon become hopelessly depleted, MEI would be able to maintain only a temporary yearly profit, and the corporation would have failed its social and economic responsibility to the Menominee people.

To prevent this from occurring, the Menominee people in the past 3 years have elected DRUM supported candidates to the eight vacancies that have occurred on the MEI common stock and voting trust. These candidates have promised to retain the human element in the tribal corporation, to keep MEI aware of its social obligations, and Menominee land within the control of the Menominee Tribe prohibiting all land sales. DRUMS supported candidates have not only taken control of both the corporation's board of trustees and the board of directors, but have changed the attitude of voting participation within the tribe. The last 4 years have witnessed a change from 2 percent Menominee participation in elections, to an astounding 49 percent—equal to the turn-outs in national elections.

However, complete social obligation would also be detrimental to the efficiency of MEI's operations. To pay full bond interest on the bond holders when not earned and adequate salaries to our sawmill workers while attempting to maintain our assets for our posterity, is an impossibility for a mill with inflated operating expenses and property taxes.

Culturally, our land is not surplus. From 1854 until termination in 1961, we steadfastly and successfully resisted all efforts to reduce our land holdings by refusing allotment, which was an experiment that imposed private property ownership on Indians. Holding our assets and people together was the dominant theme for the Menominees for 100 years. The cultural values of our people have always been focused on our land as a tribal, and not individual, holding. The interests of the tribe have taken precedence over individual interests, thus, selling our land was against every belief and value held by the Menominee people.

Also, we are not a competitive people, we wish to look after the welfare of our tribe. Termination has necessitated competitiveness and it is destroying our tribal values. Competitiveness is not necessarily "bad." But when we awoke on that morning 12 years ago, and found ourselves straddled with a corporation, non-Menominee board of directors and trustees, bearers of foreign sheets of paper called stocks and bonds, and without the tribal rolls for our children to be remembered as Menominees, we were expected to no longer function emotionally, culturally, or legally as Indians.

This sudden change in roles has affected the emotional well being of the Menominee people. The instances of arrests due to alcohol related offenses is three times higher in Menominee County than in any other reservation in the State. Less than 24 percent of our children complete high school, compared with over 54 percent for the State of Wisconsin.

Restoration of the Menominee Tribe is the only salvation for Menominee Enterprises and the Menominee people. With Menominee lands safely back in trust, the almost $500,000 yearly paid in property taxes can be used to update our mill. Our children and their children can be assured of retaining our most important asset, our ancestral lands.

With the return of tribal government, MEI will no longer need to function as the sole taxpayer for the Menominee area, and can concentrate on showing our tribe a profit for all our people to share.

One great Indian chief, when his tribe had been beaten down by the U.S. Army and placed on a tiny, barren reservation, said, "We shall endure." These past 12 years we have endured, but we do not simply want to endure, we want to live. Don't let the Menominees reach the end of the trail. Please reverse our termination and allow our tribe to live.

Mr. MEEDS. Thank you very much.

[Applause.]

Mr. MEEDS. Thank you very much for a very eloquent statement, Ms. Wilber.

I'm going to ask, first of all, questions of both of you. I would like first your response, Ms. Deer, and then yours, Ms. Wilber.

What do you feel is the future of MEI without restoration? Is there any future for it at all? In other words, is there some way that with some other method it could be pulled back together to begin showing a larger profit?

Is there any future for it, in short?

Ms. DEER. As we have emphasized in our testimony, the tax burden is a crushing responsibility and at this point we do not have the funds to modernize our mill, to update the equipment, and without this type of improvement in our mill we don't feel that we can progress and compete.

However, I would like to refer this to Mrs. Wilber because she is the chairperson of the board and has much more detailed knowledge of this.

Ms. WILBER. As I envision Menominee Enterprises it just will never, under county status, be a viable corporation. As I stated, we have our sustained yield restrictions. Our mill is geared to 30 million board-feet of lumber. There is just no way we can reduce the operating costs.

We have very little left. Last year we had nothing left which to put back and repair our mill.

Insurance costs are increasing and we are just concerned there's no way we can do it.

Mr. MEEDS. So the report I have from both of your statements, is that without restoration MEI is doomed within a couple of years to bankruptcy, literally; bankruptcy, and Menominee County likewise is an accurate reflection then of the actual situation, is that correct?

Ms. WILBER. I think that's an adequate statement.

Mr. MEEDS. Ms. Deer.

Ms. Deer. Our Vice President, Mr. Boyd, who is scheduled to testify later can give you much more definitive information on the financial figures.

Mr. Meeds. Now both of you mentioned in your testimony, at least what I infer to be a suggestion, that you would like to get away from the annual sustained yield concept, yet the bill requires sustained yield principles for tribal forestry.

Ms. Wilber. We didn't want to infer that, we wanted to get away from the sustained yield. We just want to emphasize that this was forced upon us and as a result we couldn't operate as profitably as we could.

I think our forester will be here this afternoon to relate his feelings. The forests are of concern to all the Menominees, and I think that they too don't want to see the forests depleted, so we do realize that we need the forests; we need some type of method to realize or to make sure that the forest is there and that our lumbering industry continues, but this is a requirement that necessarily was forced upon us that we cannot operate economically.

Mr. Meeds. Do I understand correctly you are not opposed to following and indeed desire to follow good forestry practices, and if those practices require a lower sustained yield than 30 million board-feet, you would be quite willing to follow those?

Ms. Wilber. Right.

Mr. Meeds. Very good.

Sylvia, could you explain to us a little more about the bonds? I'm just a little vague about that.

Is it costing approximately $350,000 annually? What happens to that money?

Ms. Wilber. We have a 4 percent income bond that each Menominee shareholder, was given each person who is on the tribal rolls at the time of termination, and Menominee Enterprises must pay them to the extent of their earnings, the 4 percent of the $3,000 bond. When we reached the full payment that is right around $350,000.

Mr. Meeds. Now, that does go to individual Menominees and Menominee families, does it not?

Ms. Wilber. Yes, but this is a requirement placed on the corporation so that as in any other corporation that money could be used to update our mill or be used for expansion, but Menominee Enterprises must necessarily pay it to the bondholders.

Mr. Meeds. And then for all of the property held by Menominee Enterprises, you then pay the property tax also, so that you come to about $1 million right off the top, before you can do anything? That's an on-going obligation?

Ms. Wilber. That's correct.

Mr. Meeds. Would it be safe to say that the most crushing obligation is that property tax?

Ms. Wilber. That is correct.

Mr. Meeds. And that would be removed by restoration?

Ms. Wilber. Yes.

Ms. Deer. Mr. Chairman, we do have our counsel here and we think that they may be able to add some additional information on those points.

Mr. **Meeds.** Very good. We will talk with them a little later.

Now, as I recall both from your statement and from the legislation, the voting rights and the right of alienation to the shares in the Menominee Enterprises, Inc. comes into being, or they become alienable, as I recall, in 1974, is it?

Ms. **Wilber.** Yes.

Mr. **Meeds.** If we were to go beyond 1973 and into 1974 without some kind of legislation, that would be totally disastrous, would it not?

Ms. **Wilber.** Right.

Mr. **Meeds.** Because at that time these shares could then be transferred to non-Menominees.

Ms. **Wilber.** Yes.

Mr. **Meeds.** And you would probably lose all control at that time.

Ms. **Wilber.** Eventually we expect that to happen, yes, if the status is kept as it is now.

Mr. **Meeds.** Perhaps one of the attorneys could answer this question.

I have a question with regard to the fishing rights on these lakes. Let's assume for the sake of this discussion, that the people, non-Menominees, non-Indians, living on these lakes where they purchased, have a special right to retain fishing rights. Is it necessary to give the State of Wisconsin the right to regulate fishing with regard to those people to protect that special right that they have?

Mr. **Preloznik.** No; we feel that the preclusion of that particular measure was unnecessary. Wisconsin already has jurisdiction on the reservation and the Menominee County with respect to non-Indian people as well as Indian people.

The only section of Public Law 280 is the area of hunting and fishing that may have been given by treaty rights. There is a U.S. Supreme Court case indicating that the Menominees do have a special right and for that reason the State has not been able to enforce hunting and fishing on the reservation with respect to Menominee people but they have always had the right to enforce the fishing and hunting regulations with respect to non-Indian people.

Mr. **Meeds.** You're not contesting that?

Mr. **Preloznik.** No, we think the clauses are utterly without any significance because the State already has that authority.

Mr. **Meeds.** On the other hand, it might be misconstrued in other States. I'm frankly a little worried about the language from the standpoint of my own State, and special Indian fishing rights on reservations.

This might be construed as passing to non-Indians fishing rights on Indian reservations which certainly I, as one person, would not want to see passed on.

Mr. **Preloznik.** Mr. Chairman, if you would permit me I could also give you some information as to the hunting and fishing rights that were allegedly given to the non-Indian people in Menominee County.

Let me say that the bill does not attempt to take away any right that people have and the question of whether they have acquired any rights is presently being litigated.

Mr. MEEDS. Well, let me just add very quickly that this bill would be subject to whatever decision is reached by the court. It would not attempt in any way to override the court's decision.

Mr. PRELOZNIK. That is correct, and the same holds true with respect to the lands in question.

I think (c) of the bill that was introduced in section 6 indicates that we're only talking about transferring land where the assets of Menominee Enterprises but subject to any restrictions or any encumbrances or any liens that may be attached thereto so that the bill is not designed to take any rights away that people have acquired since termination and if they acquired them, and this is actually concluded in a court of law. Obviously the Secretary of Interior would be taking it subject to those particular rights, so I think that you know the concern that was expressed by some of the people earlier about some rights being extinguished by the bill, I don't think it's a valid concern because I do not believe we are attempting in this bill to do that.

Mr. MEEDS. Indeed it would be unconstitutional, in violation of the fifth amendment, if we did so, would it not?

Mr. PRELOZNIK. When we drafted this bill we worked with the lawyers in the Secretary of Interior's office, Bureau of Indian Affairs, to make sure that we did not infringe upon anyone's constitutional rights that they may have acquired through this termination.

Mr. MEEDS. Do any of you have any idea what percentage of the non-Indian owners are permanent residents of Menominee County?

Mr. PRELOZNIK. I would be speculating. I think, Mr. Miller, who is chairman of the county board, could probably give you a better answer on that.

Mr. MEEDS. What types of funds and for what purposes would you expect to be coming to the Menominee Tribe after restoration; what areas like education, health, others?

Mr. PRELOZNIK. The principal source is—Mr. Wilkinson could give us some information on that—would be the Johnson-O'Malley funds which are specifically excluded from Menominee people because of the termination of their Indian status.

This also holds true with any funds that come through the Bureau of Indian Affairs.

Mr. MEEDS. I hope you're not depending on a lot of Johnson-O'Malley funds because they are really inadequate as they are. But Public Law 874 would be quite a boon if Menominee County were returned as an Indian reservation and everyone who resides in Menominee County would be counted. Every student would be counted as what we call an aid student under impact aid, and entitled to full impact aid, so it would be a pretty substantial source of income.

Mr. WILKINSON. If I might say, Mr. Chairman——

Mr. MEEDS. Yes, Mr. Wilkinson.

Mr. WILKINSON. There was a letter written from Deputy Commissioner John Crow of the BIA to Senator Proxmire dated October 26, 1971, which you may well have seen, but it does detail the specific payments that would be made by the Bureau of Indian Affairs, and as you point out, very significantly, impact aid funds, Public Law 874, are administered through HEW so that those funds would be in addition to the $1.4 million mentioned in this letter.

Mr. MEEDS. Do you have an extra copy of that, sir?

Mr. WILKINSON. I have a copy, and we can probably get it Xeroxed over the lunch hour.

Mr. MEEDS. If you would, I would like to enter it into the record at this point.

[The document referred to follows:]

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., October 26, 1971.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: As requested, estimates have been prepared of annual costs to provide *BIA-authorized services* to Menominee Indians on an equitable basis should the United States reassume the services that were terminated with the tribe. Costs are based on 1971 prices and wages. Costs have been included for some currently authorized services that were not provided at the time of termination since it is believed the intent would be to make these services available to Menominees on some equitable basis should termination be repealed. The estimates follow:

Education:	
Pre-school, elementary, secondary	$ 400,000
Post-secondary (scholarships)	100,000
Training:	
Adult education and community development	29,000
Employment assistance	135,000
Welfare:	
Housing assistance	30,000
Welfare and guidance services	180,000
Law and order	170,000
Subtotal, Education, Training & Welfare	$1,044,000
Others:	
Agricultural and industrial assistance	16,000
Road maintenance	[1] 195,000
Management of Indian trust property	40,000
Credit and financing	[2] 40,000
Aid to tribal governments	15,000
Supporting	65,000
Subtotal, Other	$ 371,000
Total	$1,415,000

[1] $90,000 of this amount is nonrecurring first-year equipment cost.
[2] For staffing needs. Will need more funds for lending purposes.

Prior to termination, proceeds from the operation of the lumber mill were used to pay a portion of the cost of services provided. Presumably this would be true if the United States were to reassume the services that were terminated. The ability of the industry to bear service costs is unknown. For the year ending September 30, 1970, Menominee Enterprises, Incorporated, reported earnings of $554 thousand before taxes from its Forestry and Mills Division. This may indicate the ability of the mill operation to pay for services.

We trust this is the information required. If you have need of further assistance, please contact us.

Sincerely yours,

JOHN O. CROW,
Deputy Commissioner.

Mr. MEEDS. Could you tell us the total of that?

Mr. WILKINSON. The total is $1,415,000.

Mr. MEEDS. Does that include impact aid?

Mr. WILKINSON. No, it does not.

Mr. Meeds. What are the total costs of county government, Menominee County government presently, can you tell us that?

Mr. Wilkinson. Mr. Miller could answer that, but I believe it's around $1 million annually.

Mr. Chairman, would you like me to introduce this into the record now?

Mr. Meeds. I have a copy.

Mr. Wilkinson. That letter apparently is still valid because the figures there were incorporated into the memorandum from the Commissioner of Indian Affairs dated August 8, 1972, so that those figures were approved fairly recently.

I might say, that as I know the chairman knows, if there is anything that has been proved empirically across the country I think it is that Indian children of federally recognized tribes far more than pay their way in local educational matters and I believe that the discussions earlier about the ability of Menominee County to operate are very significantly affected by the fact that large amounts of educational funds will be coming into Menominee County and should, in fact, exceed the present level of funding.

In other words, education should be improved and the county burden should be substantially decreased.

Mr. Meeds. Thank you.

I want to thank you, Ms. Deer, particularly, and Ms. Wilber, for your testimony. The gentleman from New Mexico is recognized.

Mr. Lujan. Thank you, Mr. Chairman.

I think it should be read into the record at this point. I have in the figures that do come into the county, town, and school district, the expenditures and the revenues for the year 1970.

Property taxes were $139,000, county and town taxes. School property taxes were $201,000. Total property taxes were $341,000. Other taxes were $50,000. Special Federal aid for schools was $150,000. Special Federal aid for health and welfare was $224,000. Other State and Federal aids, $520,000. Earnings and miscellaneous was $206,000 for a total of $1,493,000.

I read those just to make them part of the record, Mr. Chairman.

In addition, I might say that perhaps there would be other funds available with legislation pending, for example, funds out of the Indians Development Funds, funds out of appropriations for block grants to tribes, this is all legislation that is pending now and I would simply mention that so that it will be included in the record, Mr. Chairman.

At the time of termination, you say you had to pay for title to your homesites. Does that mean that every family that lived in a particular place had to pay for that property on which they were living?

Mr. Preloznik. Yes; what occurred is that all the land was conveyed to the corporation and as most of you probably know, prior to termination people just acquired an interest in the improvements on a particular site and did not own the land, which was held by the tribe.

As a result, after termination many people were forced to buy the land on which their improvements were located. Some didn't realize that this had to be done and when Legend Lake was formed, as a matter of fact, they were moved off of their particular homes and were told to take their improvements because they did not own the land and the corporation did.

Most of the Menominee didn't have the resources with which to acquire that land and therefore used their bonds to acquire the land at a discounted premium. The bonds that were referred to were in the sum of $3,000 redeemable in the year 2000, payable at an interest rate of 4 percent per annum.

They were given a 60-percent discount towards the purchase of land when termination took place.

The other point that I think I ought to elucidate on is that some of these bonds have been assigned to the banks and other people at a reduced rate so that not all of the resources that are paid out on Menominee Enterprises in terms of the interest rate go to Menominee people and Menominee families.

Mr. MEEDS. Would the gentleman yield at that point?

Mr. LUJAN. Yes.

Mr. MEEDS. Are these bonds owned by anyone other than Menominees?

Mr. PRELOZNIK. Yes.

Mr. MEEDS. What impact is that going to have on the distribution return of assets to the Menominees?

Mr. PRELOZNIK. This is an obligation that the corporation has, and as I indicated earlier, that any conveyance to the Secretary of Interior would be subject to any obligations they already have.

Mr. MEEDS. Is it any kind of encumbrance, though?

Mr. PRELOZNIK. No; it is a bond which is basically a promissory note which in the year 2000 would be redeemed at a particular price, but I might add, some of the speculation as to profit is quite elusive because there has not been a sinking fund established for the retirement of these bonds so that while some people talk about generating a cash flow, it's a very elusive thing because neither has there been any depreciation set aside for the renovation of the mill nor a reserve set aside for the retirement of these particular bonds, which must be done.

Mr. LUJAN. We understand that kind of financing. We have a fund known as the social security fund which is operating in kind of the same fashion. [General laughter.]

Do any of you have any idea how much was paid for these lands, both those that had to buy the land, the members of the Menominee Tribe, I assume, that had to buy the land on which their homes were built, and second, those that bought land on these developments?

Maybe we could establish the one on the developments if we couldn't in the first instance.

Do you know, Sylvia?

Ms. WILBER. I really have no idea as to how much the individuals paid for their land. When I inferred, no voice in our affairs, this is exactly what happened.

All of this information was kept from us, so I really can't tell you how much they specifically paid for any individual property. One of the figures, I think, was the total profits took in gross profits by Legend Lake development was over $10 million from that sale.

Mr. LUJAN. What's the property valuation, do you know that?

Ms. **Wilber.** Of the entire county?

Mr. **Lujan.** No; of the developments where the property was sold.

Mr. **Preloznik.** I think some other people could probably give you a better understanding of these valuations, assessments, but I have been reviewing some of the files in the last 6 months and the purchase prices that the Menominees paid vary a great deal with the size of the purchase.

Some are simply small homesites, some involve farming lands, some were on lakesites, so that it varied. The purchase acqusitions in Legend Lake area sold anywhere between $5,000 and $15,000 per lot.

This land was originally conveyed, I think, in the area of $200,000, $250,000 total to the joint venture which the Menominee Enterprises was a part.

Mr. **Lujan.** I mention these questions in case it adds a part of all of this. The Menominee Tribe would desire to reacquire all that land as part of the solution? They may not even be thinking about it, but what it would cost to reacquire all of these properties.

Mr. **Preloznik.** It would be prohibitive because since the land was sold people have also built homes, whether they're summer homes or permanent homes. Very frequently that has made it just impossible to reacquire.

Mr. **Lujan.** So that's not something that would be considered, the reacquiring of these properties?

Mr. **Preloznik.** It's not part of this bill at all——

Mr. **Lujan.** No; in the thinking of the tribe, if restoration is to take place then there is no thought of re-acquiring these lands?

Mr. **Preloznik.** My clients have expressed many thoughts about acquiring it. The question is whether they can afford to acquire it.

Mr. **Lujan.** Let me get on to the bill itself.

There are, I would imagine, basically, the No. 1 point is to acquire the lands in trust because, No. 1, they could not be sold in the future and, No. 2, it would reduce the tax burden and these are really the two main points we are dealing with here.

There is agreement, first of all, by everyone in the tribe, being restored and the tribal rolls open again. There is no controversy amonst any members of the tribe on that, is there?

Mr. **Preloznik.** None we have been able to discover.

Mr. **Lujan.** The second point, individuals to become eligible for all federal Indian programs, of course they would be if they were restored.

Three, was lands put in trust to be exempt from local, State and Federal taxes which would be reservation status lands.

Four, property rights on non-Menominee landowners not be diminished and that, of course, you have expressed that desire. And then that the tribe itself adopt a constitution and bylaws.

Now there are others where there is disagreement and I would like to ask how you feel about these, the restoration only after abolition of the county. Suppose we're confronted with a situation of which comes first, that is, if the Congress votes for restoration and leaves that up to the Wisconsin State Legislature to decide what kind of government you should have, how do you feel about that?

How does the leadership of the restoration movement feel about that?

Mr. **Wilkinson.** Mr. Congressman, if I might say very briefly, that, of course, is not a provision in the bill that has been introduced. That was a suggestion made by the State legislators today, so that is not in the restoration legislation as it now stands.

Mr. **Lujan.** And the feeling is, you would not want to include it?

Mr. **Preloznik.** It's not related at all to the objectives of the bill here, which are designed merely to get the land that is presently held by the corporation back into a trust status for the tribe.

I would like to point out that even at termination it was recognized that Menominee County would not be viable as a county by itself and if you look at the services that the Menominee County provides you will find that in the area of courts it already operates jointly with Shawano. The courthouse in Shawano is used for the legal proceedings in Menominee County. You have a joint county judge that provides services at the county level, both in Shawano and Menominee Councils.

You find that the district attorney from Shawano County provides the prosecution for both Menominee County and for Shawano County, and until the last election he was elected solely by the people in Shawano although he provided prosecution in Menominee as well.

Mr. **Meeds.** Pardon me. Would you call that prosecution without representation? [General laughter.]

Mr. **Preloznik.** We made that argument to the State supreme court, and they rejected it, and it's interesting enough that the local court ordered that the Menominee be allowed to participate in the election of the district attorney at this last election. But you also find that the school district is a joint school district with that of Shawano so that there isn't the kind of problem that was spoken about earlier where, you know, we are going to throw all of the services on Menominee County, and they have been doing this solely by themselves since termination.

I don't think this is an accurate picture and I think this is one reason why I thought I had to clarify that.

Mr. **Lujan.** One other point that has been considered to be put into the legislation is to prohibit the tribes from selling land after restoration. Wouldn't that be automatic with it being a reservation, and secondly, if we put it in as a Congress, would that not be telling the Menominees what to do? After all, they're going to put together a constitution and by-laws and I would assume that they would put it in there, so as a policy of self-determination, to just leave it out.

Is that your feeling also?

Mr. **Preloznik.** In my conversations with Menominee people, they wanted the same kind of protection in terms of their assets as other tribes enjoy, which does not permit the tribe to sell the land even if it would be included in their tribal laws.

They have found from experience that the economic pressures are sometimes so great on the leadership that they are forced to sell assets even when they do not desire to do so. So they wanted that additional protection.

This is why we drafted that additional protection into the bill, and opposed the introduction of that particular portion which would permit the tribes to sell the lands.

Mr. WILKINSON. Congressman, excuse me. At many community meetings this subject came up, and I think what the result was, as you point out, there is a tension between that provision and the right of self-determination, and I think that the Menominee people at the community meetings simply felt that the loss of land was such a paramount evil that they were willing to sacrifice a bit of self-determination in that area, and they just felt that that was so important that that should be in the legislation even though, as you point out, there is technically a loss of self-determination.

Mr. LUJAN. And the last item, which is the 2-year delay, is simply because for those 2 years you might continue to have to pay taxes on that property, is that correct?

Mr. PRELOZNIK. Yes, and also it is subject to further dissipation and if the corporation is not viable, certain proceedings could be employed at the litigation level and subject that land either for liens or further encumbrances. So that, to prevent further dissipation, it would be our thought that that ought to be done as quickly as possible to preserve the land from further dissipation.

Mr. LUJAN. That's all, Mr. Chairman.

Mr. MEEDS. Just one further question.

Indeed, if we went 2 years we would get into the 1974 stricture and at that point, if I recall Ms. Wilber's testimony correctly, those shares of stock would then have to be considered assets, once they became transferable. They then would be subject to sale prior to the receipt of public assistance and such services by government. So, that could really foment a disastrous period.

Mr. LUJAN. Let me ask just one more question, Mr. Chairman.

Mr. MEEDS. Fine.

Mr. LUJAN. In the operation of MEI, do you consider the social values, such as providing employment and that sort of thing, your obligation on the board, that your obligation is for those social causes rather than profit?

Ms. WILBER. I think it is. I think in the Indian community and especially Menominee Enterprises, especially where we have over 3,000 Indians owning the corporation, that we cannot just reject them and vote for profits.

This is something that troubles us. When we lay off people in the mill, as I said, the only way we can reduce the cost is to lay off some people in the mill or reduce our work force, which then means that that individual has no other place to go but to the welfare rolls, and that's already bulging in the community. So, it's just a vicious circle.

Mr. LUJAN. Thank you.

Mr. MEEDS. I'd like to take this opportunity to read into the record something which counsel found with regard to the initial Menominee bill for distribution which was introduced by a former colleague of ours, Melvin Laird, a very distinguished Secretary of Defense. He is talking here about having introduced the legislation for distribution on a per capita basis of approximately $1,500 per capita or some $10 million, which was due the Menominees. He says:

> Some time after the hearing before the House committee, the Department of Interior submitted to the committee a report favoring enactment of the bill introduced by me, with one modifying amendment to which the representatives

of the tribe agreed. The House then passed the bill. The bill was then sent to the Senate and the delegates of the Menominee tribe later reported to me that it was impossible to obtain action on their simple per capita bill in the Senate.

The next thing I knew was that the delegates reported to me they had been informed by Senator Watkins, chairman of the Senate subcommittee, that unless they committed themselves to a program of withdrawal from Federal supervision, they could not expect to obtain action on a per capita bill.

That doesn't sound like a very permissive action on the part of the Menominees at that time, to me.

Thank you very much for your testimony.

Mr. WILKINSON. Mr. Chairman, I have two documents to offer into the record, if I might.

Mr. MEEDS. Would you explain them, please.

Mr. WILKINSON. Yes, they are two legal memoranda, one of which deals with the effects of, or the issue of taxation after restoration. That's a memorandum dated April 5th.

The other one is a research memorandum dated May 23d which deals with a concern that Mr. Kenote raised at the meeting of the Menominee Indians Study Committee meeting on February 16 and deals with whether vested rights of Menominee would be dominated by this act.

I would say that there is a discussion of the congressional power to pass this legislation also.

Mr. MEEDS. Now, were these prepared by you, sir?

Mr. WILKINSON. Yes, sir.

Mr. MEEDS. Is there objection to entering them into the record?

Without objection, they will be entered then.

[The documents referred to follow.]

NATIVE AMERICAN RIGHTS FUND,
Boulder, Colo., April 5, 1973.

MEMORANDUM RE RESTORATION ACT

Subject: Unreasonable taxation of taxpayers after restoration.

STATEMENT OF ISSUE

If the Menominee Restoration Act is passed, all of the land held by MEI and some of the land held by individual Menominee will be held in trust by the United States for the benefit of the Menominee people. All land held in trust will be non-taxable. Inevitably, this means that the tax base in Menominee County will be decreased. Mr. Holmes, of the Wisconsin State Department of Revenue, estimates that as much as 57% of the existing Menominee County tax base will become non-taxable land. Several non-Menominee land owners, who would still be required to pay taxes after restoration, have expressed concern that the above factors might result in increased tax rates because of the decreased tax base. Non-Menominee have also expressed concern that future Menominee County officials will overtax the non-Menominee property holders; the basis for this concern is that County officials will probably be Menominee Indians (because the Menominee voters are in the great majority in the county) and that Menominee office holders would be tempted to take advantage of the non-Menominee land owners, who would be virtually the only taxpayers in the County.

Our conclusion is that neither of the above concerns will be realized. If anything, tax rates in Menominee County should decrease, not increase, after restoration. Furthermore, we know of no basis for fears of overreaching by future Menominee County officials; in addition, there are numerous legal safeguards which will protect non-Menominee land owners if Menominee County officials did attempt to abuse their powers. Our reasoning is as follows:

DISCUSSION

I. The tax burden in Menominee County will not increase after restoration

The principal factor rendering unnecessary the concern about the adequacy of the reduced Menominee County tax base after restoration is the massive influx of federal funds and services which will necessarily follow restoration. The restored Menominee Tribe will be entitled to many services now supported by taxes collected in Menominee County. Most notably, all county expenses for elementary and secondary education will probably be eliminated by reason of the eligibility of Menominee and Shawano County schools for funds under the Johnson-O'Malley Act, under Public Law 874 (Impact Aid Program), and under various titles of the Indian Education Act. Educational costs represent approximately 61% of Menominee County's expenditures. Funds from P.L. 874 alone should approximate existing expenditures for education because P.L. 874 funds compensate schools for the educational expenses attributable to children who reside on non-taxable land. We think that virtually any educator in the field will agree that Indians usually more than "pay their way" in regard to educational expenses, due to the large federal expenditures. See, e.g., *An Even Chance*, p. 1, 8 (NAACP Legal Defense and Education Fund, 1971).

Bureau of Indian Affairs expenditures on roads and United States Public Health Service expenditures under the Contract Medical Care Program for Indian health will further reduce the need to raise revenue within Menominee County. We have reliable information that budget projections for federal services to the Menominee exist for fiscal 1975, but we have been unable to obtain this data because it is deemed confidential until the federal budgetary process is complete. The one projection which we have seen estimates that the Bureau of Indian Affairs will expend $1,195,000 annually in providing services to the Menominees; this figure is, by itself, in excess of the present expenditures of Menominee County. The projected large payments of P.L. 874 funds, which are administered by HEW, will increase the total annual federal expenditures by substantially more than $500,000.

One simple example dramatizes this point. As mentioned above, the State of Wisconsin estimates that the tax base in Menominee County will be decreased no more than 57% after restoration. The fact, however, that expenditures will decrease by an even greater amount is underscored by the *decrease of 61% for county educational expenditures alone.* Education is only one of the many federal expenditures which will further reduce County obligations.

Thus it is entirely unrealistic to project the future Menominee County tax burden on the assumption that county obligations will reamin the same after restoration. We think it an inescapable conclusion that the tax burden in Menominee County will *not* increase after restoration: in fact, expenditures will almost certainly decrease more than revenues.

II. There is no historical basis for concern that Indian officials will overtax non-Indian landowners

We have reviewed records in Ashland, Bayfield, and Vilas Counties, in order to determine the effects in other counties where Indian electorates are large enough consistently to control local units of government. The Town of Sanborn in Ashland County is controlled by an Indian town board. The effective millage levy in that town is approximately 41½ mills, based upon state equalized or recommended valuation. The city of Ashland, controlled by a non-Indian government, imposes a millage levy which amounts to approximately 43 mills on state equalized or recommended valuation. Thus, notwithstanding the substantial tax exempt land in the Bad River Reservation in the Town of Sanborn, the millage rates on full fair market value in the city of Ashland and the Town of Sanborn are substantially equal.

We know of no reason that the experience in Menominee Town and County should be any different than the above. Officials like Ben Miller have, we suggest, always acted in the utmost good faith toward non-Menominee landowners.

III. Wisconsin law will fully protect non-Indian landowners after restoration

Wisconsin law provides safeguards against unfair taxation in Menominee County following restoration. First, Wisconsin statutes provide explicit limitations with respect to Menominee County. The Town of Menominee is presently limited by a 1.5% ceiling on taxes as measured against the assessed valuation of real estate in the town, except for taxes on schools. Wis. Stats., 1971, §60.18(1)(a). Menominee County, having only one town within its boundaries, is subject to a similar ceiling upon its taxing powers:

> "In counties containing one town only, the total amount of county taxes assessed, levied, and carried out against taxable property of such county, in any one year shall not exceed in the whole 1½% of the total valuation of said county for the current year as fixed by the Department of Revenue." Wis. Stats., 1971, §70.62(2)(a).

These important statutes set a mandatory ceiling on total tax revenue and provide full protection to owners of taxable land after restoration. We have consulted with officials of the Wisconsin State Department of Revenue and they fully agree with this conclusion.

Second, Menominee County lacks legal authority and discretion to determine the revenue to be raised for the state or for Shawano Joint District No. 8. The amount allocable to Menominee County for these purposes is certified by the state to the county. This large portion of the total tax burden is, therefore, not subject to control (or increase) by Menominee County officials.

Third, the restoration bill, in section (b), does not contemplate automatic tax-exempt status for lands held by individual Menominess. To the extent that Menominee do not place their individual lands in trust, significant numbers of Menominees will be motivated by the precise desire that the non-Indian taxpayers share: tax rates in Menominee County ought not to exceed the level necessary to finance needed county services.

Fourth, erroneous assessments and levies of taxation may be reviewed by local Boards of Review, by the Department of Revenue (Wis. Stats., 1971, §70.85) and ultimately by the courts of the state. Finally, the Wisconsin Constitution, Article VIII, §1, provides that "the rule of taxation shall be *uniform*, but the legislature may empower cities, villages, or town to collect and return taxes on real estate located therein by optional methods." (Emphasis supplied.) Although the Wisconsin Constitution permits variations in tax rates between cities, villages and towns, uniformity of taxation is constitutionally mandated within each local jurisdiction.

There are, then, statutory safeguards against abuse of non-Indian landowners. Equally important, we know of no factors which would indicate that the Menominee people have the slightest tendency to engage in such practices. In the absence of any evidence whatsoever, we think it unreasonable to impute improper—and indeed illegal—motives to the officials of Menominee Town or County.

NATIVE AMERICAN RIGHTS FUND,
Boulder, Colo., May 23, 1973.

MEMORANDUM RE RESTORATION ACT

Subject: Whether "Vested Rights" of individual Menominee are violated by the Restoration Act.

STATEMENT OF ISSUE

Mr. George Kenote has suggested that the Menominee Restoration Act may violate "vested rights" of individual Menominee. Mr. Kenote's concerns were raised at pages 1 and 2 of his prepared testimony before the Menominee Indian Study Committee on February 16, 1973. Mr. Kenote reasoned that "all of the assets in Menominee Enterprises . . . would be transferred to this new entity [i.e., the tribal corporation]—no doubt thus dissolving the existing equities now held by the certificate holders of Menominee Enterprises, the individual interest then again becoming in-choate." Mr. Kenote went on to inquire whether "Congress or any other authority has the right now to dissolve, or authorize the appropriation of, the equities now vested in the individual Menominees."

Our conclusion is that the Menominee Restoration Act, as it is presently drafted, does not violate vested rights, or any other rights, of individual Menominee. In general terms, our reasoning is that Menominee property rights are still primarily tribal rights and, as was the case before termination, are not "vested" in individual Menominee. In addition, individual rights cannot fully "vest" in any Menominee individual until the State of Wisconsin lifts the statutory restraints on transfer of MEI stock. These factors, coupled with Congress' extremely broad power over property rights of American Indians,

require the conclusion that the Menominee Restoration Act does not violate any property rights of individual Menominee. Our more specific analysis is as follows.

DISCUSSION

Before termination the Menominee, like other Indian tribes, held their lands by means of a unique legal relationship known only to American Indian tribes. Title was very similar to lands held in common: "every member by virtue of his membership in the tribe, was entitled to dwell upon and share in the tribal property. It was granted to the tribe by the federal government, not only as the home of the tribe, but as the home of each of the members." ***Shulthis v. McDougal*, 170 F. 529, 533 (8th Cir. 1909), appeal dismissed, 225 U.S. 561 (1912). See also, e.g., *Choate v. Trapp*, 224 U.S. 665, 667, 670–71 (1912). The tribe, not individual tribal members, controlled the disposition of tribal property. See, e.g., *Sizemore v. Brady*, 235 U.S. 441, 446 (1919); *United States v. Chase*, 245 U.S. 89 (1917). Although the nature of tribal property is *sui generis*, the leading authority has characterized it in terms which are directly applicable here:**

> **"Perhaps all of these differences can be summed up in the conception of tribal property as *corporate* property." (emphasis in original). F. Cohen, *Handbook of Federal Indian Law*, p. 288 (U.N. Mex. Press, 1970 ed.).**

It is still difficult to place a label on the hybrid nature of the property interests which individual Menominee hold today. We all know, as the Seventh Circuit has acknowledged, that individual property rights under the Menominee Termination Act are "indeed unique." ***Otradovec v. First Wisconsin Trust*, 454 F.2d 1258, 1261, Fn. 7 (7th Cir. 1972).**

Upon close analysis, however, it can be seen that the Termination Act created individual property interests which—no matter how they are categorized—are almost identical to the interest which existed before termination. The Termination Act does provide that the interest is personal property (25 U.S.C. §893), but the interest is subject to many restrictions. Most importantly, the Act provides that the interests of tribal members "shall be alienable only in accordance with such regulations as may be adopted by the tribe." 25 U.S.C. §893. In addition, the State legislature has provided that certificate holders cannot transfer their interests before January 1, 1974, a date which will almost certainly be extended. A further important restriction is that the sale of tribal land must be agreed to by two-thirds of the certificate holders. See MEI Articles of Incorporation, Article XII and *Tomow v. MEI*, Circuit Court, Menominee County. Finally, all property remains tribal property even after termination. An American Law Division opinion, dated May 23, 1958, makes this point in several places and concludes that the property is entirely subject to tribal regulation, if legally adopted. *Id.* at p. 4. The courts agree that the tribal interest in tribal realty was undisturbed by termination:

> **"the tribe continues to hold the beneficial and equitable interest in the property that was conveyed by the Secretary of the Interior to plaintiffs, Menominee Enterprises, Inc., and First Wisconsin Trust Company, Trustees, in trust for the tribe."** ***Menominee Tribe of Indians v. United States*, 388 F.2d 998 (1967), affirmed 391 U.S. 404 (1970).**

As can be seen from the above discussion, the individual's interest remains almost exactly the same as before termination: it is tribal regulation, not individual control, which is paramount. The only significant changes made by termination in the nature of the property interests are adverse to the Menominee; obvious examples are the fact that tribal property is now taxable and the fact that an individual's voting rights are greatly limited by the provision for the Voting Trust.

Because individual interests are non-alienable and are still subject to tribal and legislative control, the interests remain contingent and not vested. For constitutional purposes, rights are vested only when there is "an immediate right of present enjoyment, or a present fixed right of future enjoyment. . . . They are contingent when they are only to come into existence on an event or condition which may not happen or be performed until some other event may prevent their vesting." ***Pearsall v. Great Northern Railroad Co.*, 161 U.S. 646, 673 (1896). See also, e.g., *United States v. Heinrich*, 12 F.2d 938, 940 (D. Mont. 1926); and *United States v. Nebo Oil Co.*, 190 F.2d 1003, 1010 (5th Cir. 1951). The certificate holders of MEI have no present right of enjoyment in their interest in MEI property and will have none until both the tribe and the state legislature determine that the shares are alienable.**

We will mention that Congress did create one interest which is not a tribal interest. The income bonds, which yield 4% annual interest and which mature in the year 2000, appear to be individual, vested rights and not tribal property. Unlike rights under the certificates, rights under the bonds are fixed and certain: the bond holder is entitled to a specified annual return and to payment of the face amount on a specified maturity date. As we have explained to the members of the Voting Trust, in a letter dated October 12, 1972, these bonds would continue to be obligations of MEI after restoration.

The Menominee Restoration Act would change the class of beneficiaries who hold a tribal interest; that is, the Act would reestablish the tribal interest of those Menominee who were born after June 17, 1954. Arguably, this enlargement of tribal membership dilutes the interest of present certificate holders of MEI. The United States Supreme Court, however, has specifically rejected this argument. In *United States v. Jim*, —— U.S. ——, 93 S.Ct. 261, 34 LEd.2d 282 (1972), the Court dealt with a 1933 congressional act which defined the pool of Navajo beneficiaries who were entitled to receive royalties from mineral resources on a part of the Navajo Reservation. In 1968, Congress passed an act which enlarged the pool. The Court held that "to be sure, the 1933 act established a pattern of distribution which benefited the appellees more than other Indians on the Navajo Reservation. But it was well within the power of Congress to alter that distributional scheme." 34 LEd.2d at 285. The Court cited *Gritts v. Fisher*, 224 U.S. 640 (1912), where a congressional act had created allotments in favor of enrolled members. A later act—identical in this respect to the Menominee Restoration Act—enlarged the number of beneficiaries by permiting after-born children to participate in the allotments. The Court in *United States v. Jim* quoted at length from *Gritts v. Fisher* and we offer the quotation in full because it is so directly relevant to the situation here:

> "But it is said that the act of 1902 contemplated that they [the beneficiaries under the first enactment] alone should receive allotments and be the participants in the distribution of the remaining lands, and also of the funds, of the tribe. No doubt such was the purport of the act. But that, in our opinion, did not confer upon them any vested right such as would disable Congress from thereafter making provision for admitting newly born members of the tribe to the allotment and distribution. The difficulty with the appellants' contention is that it treats the act of 1902 as a contract, when 'it is only an act of Congress and can have no greater effect.' . . . *It was but an exertion of the administrative control of the Government over the tribal property of tribal Indians, and was subject to change by Congress. . . .*" (emphasis supplied) 224 U.S. at 648.

We believe that *United States v. Jim* and *Gritts v. Fisher* are controlling here. If anything, the Menominee Restoration Act is even easier to uphold than the fact situations in the above cases. The termination act took away all rights of children born after June 17, 1954. The Restoration Act would reestablish all property rights of all Menominee. If the Restoration Act is passed, all Menominee will have precisely the same interest in tribal property as they did before 1954.

The results in the above opinions are easy to reach in light of Congress' broad power over Indian tribes. The Menominee people still exist as a tribe. See, e.g., *Menominee Tribe of Indians v. Unitd States, supra*, 388 F.2d at 1000-1001 and the authorities cited there. Indian tribes were described long ago as "domestic dependent nations" by Chief Justice Marshall in *Cherokee v. Georgia*, 30 U.S. 1 (1831). The power of Congress to regulate such nations is "plenary." See, e.g., *Warren Trading Post v. Arizona Tax Commission*, 380 U.S. 685 (1965); *Stephens v. Cherokee Nation*, 174 U.S. 445, 478 (1899). The Supreme Court has made it clear that this power is extremeley far-reaching: "Congress possesses the broad power of legislating for the protection of the Indians wherever they may be within the territory of the United States." *United States v. Ramsey*, 271 U.S. 467, 471 (1926). Similarly, in *Perrin v. United States*, 232 U.S. 478, 486 (1914), the Supreme Court stated that Congress, so long as its actions are reasonably essential to the Indians' welfare and founded upon some reasonable basis, "is invested with a wide discretion and its action, unless purely arbitrary, must be accepted and given full effect by the courts." Congress' broad powers over Indians have been summarized in the following terms:

> "In view of the express grants of the commerce power and the expenditure-for-the-general-welfare power, of the fact that the greater Indian tribes lived on the national domain and not within any state (until the

> west was piece-meal admitted to statehood), and of the custom of dealing with Indian tribes by treaty, *the United States Supreme Court has never found, so far as I can learn, that any congressional regulation of Indians has been beyond the reach of national power. Indeed, the net result is the creation of a new power, a power to regulate Indians.*" (emphasis supplied) Rice, *The Position of the American Indian in Law of the United States*, 16 J. Comp. Leg. 78, 80–81 (1934).

Termination did not end all federal control over the Menominee. In *Otradovec v. First Wisconsin Trust*, 454 F.2d 1258, 1261 (7th Cir. 1972), the Seventh Circuit held that Congress still has a "continued partial guardianship" over the affairs of the Menominee Tribe. The same result was reached in regard to the Klamath Indians in *Crain v. First National Bank*, 324 F.2d 532, 536 (9th Cir. 1963). We think it indisputable that Congress could, in the proper exercise of its plenary power over all Indians, extend federal trust status to the Menominee even if no present federal relationship existed; the fact of the matter, however, is that a partial guardianship does continue and Congress would only be increasing the extent of the relationship.

Thus, Congress has broad power over all American Indian Tribes, including the Menominee people, who are still members of the Menominee Tribe. If we assume that Congress had the power to pass the termination act, then it now has the power to pass the Restoration Act; the restoration legislation is a mirror image of the termination act as far as property interests are concerned. Furthermore, the power of Congress to act here is far easier to support, since restoration is so clearly advocated by the members of the Menominee Tribe.

The ultimate truth is that termination imposed far more liabilities than benefits upon the Menominee people. We know of no one who seriously questions that the Restoration Act, taken as a whole, would tremendously benefit the Menominee Tribe and its members. It simply flies in the fact of Federal-Indian history and law to conclude that Congress cannot act to make such benefits a reality.

In short, we see no substance to the argument that Congress does not have power to enact the provisions in the Restoration Act relating to the nature of individual interests in tribal property, particularly where the legislation is supported by the Tribe itself.

Mr. Meeds. Thank you very much.

We have now arrived at the lunch hour.

We will meet back at 1:30. At that time we will have 1 hour from general witnesses.

I would ask that those people who are scheduled to testify and whose names are on the witness list not testify at that time, but that people who have not been named on the witness list have an opportunity to testify. I ask that you please limit your testimony; if you have prepared statements, please enter the statements and summarize. We'll put them in the record but we would like to ask that each person limit himself to approximately 10 minutes at that time, and if there are groups please have a spokesman.

[Whereupon, the hearing was recessed, to reconvene at 1:30 p.m. the same day.]

AFTERNOON SESSION

Mr. Meeds. The Subcommittee on Indian Affairs of the full Committee of the House Interior and Insular Affairs will be in session for taking of further testimony in the matter before us.

We are going to try something that, at least to my knowledge, is new in the annals of congressional hearings. We are going to have an hour's period of time during which witnesses who have not been noticed and have not been listed as witnesses will be given an opportunity to testify.

I would like to get some idea of how many people would like to testify during that period of time.

Would those people please stand?

All right, I am going to divide the time among those people who are standing now. If you want to say something, you'd better stand up now so we can reserve time for you.

All right, there are nine people standing. That means about 7½ minutes per person. Each witness, will be, if you'll pardon the expression, gaveled down after 7½ minutes.

Now it really ought not to be too difficult for you. Both Mr. Lujan and I are Members of the House where we are used to the 5-minute rule. We speak for 5 minutes and although we don't always say everything we think during that period of time, we get gaveled down if we speak any longer. So 7½ minutes will be the limit.

Will the first witness please come forward.

Sir, would you please speak up and state your name for the record. Then proceed for 7½ minutes.

STATEMENT OF MONROE M. WESO

Mr. Weso. Mr. Chairman, my name is Monroe M. Weso, full blooded Indian.

My uncle, Ernest Neconish, and I—and we have another one back here, Pete Fish—would like to make a few statements in regards to the Restoration Act.

I happen to be one of the delegates that went to Washington during the termination and I put myself on record at the Congressional Record publication that I objected to the termination at that time 1954. Since that time my thoughts and aspirations have been towards Indian people, the treatment that we have gotten and shortly after, wandering around, visiting around Indian people, we have come to the conclusion that we should organize so we applied for a charter to be recognized as the Menominee Indian Action Committee.

I have the charter here, and why we organized, and the result of our organization and discussion of Indian business. We came upon formulating a petition. We want to petition Congress and the Indian Bureau. The law did not give us justice. And here we formulated a petition. A group of Menominees banded together and organized under the State system.

We are chartered under the name of Menominee Indian Action Committee. The purpose for which we are organized is to provide a spirit of friendliness and cooperation where each member is allowed the opportunity of sharing in the organization's responsibility, and all actions are in the attempt to solve genuine Indian problems.

We are organized without stock and not for profit; therefore it is a sense of this organization to direct this petition to you as a representative of the people. Enclosed with this letter is our petition with names supporting our reasons for drafting this petition.

We are trusting you take appropriate steps to make known to the President and to the Congress and to the Senate and all levels of government our problems to determination and we trust that you will come up with a workable solution.

Copies of this petition are being sent to Wisconsin Representatives, Senators, and to the Secretary of Interior and Director of Indian Affairs, and we did send some copies to Washington of letters here in reply from Congressman Obey at that time, and here is a letter that Congressman Obey recognized the petition that we sent and he acknowledged the efforts that we are doing. I will not read it, but I will submit it into the record. And also, again, another letter from the Senate at that time, George McGovern, Senator George McGovern, was one of the chairmen of the Interior and Insular Affairs Committee, and he acknowledges the letter. It is a brief letter stating, thank you for your letter on behalf of the Menominee Indian Action Committee. I will be happy to work with Congressman Obey on the Menominee Termination Act. I appreciate your writing to me. With very good wishes, sincerely, George McGovern.

I will submit that to the record, and also the names involved in this petition. We state that this is the second one. The first petition was in April 1964, which had a listing of 788 names, and the second one that was drafted here, we had around 500 names.

The purpose of this petition was to appeal to Congress and we wanted them to take another look, and in fact we wanted to reverse termination itself. It's all written down in here. And also supporting evidence why we had done that.

There's a list of things in here that I know it would take me quite a while to read, but if the committee would like to review these, we would be happy.

So, this thing of restoration is not just beginning here, just in the last couple of years. We have been trying this thing since 1964, according to our petitions here.

So I am going to submit this petition to the files and have it made part of the record, if I may.

Mr. MEEDS. Without objection, it will be received for the file.

Mr. WESO. Also, I would like to introduce my uncle Ernest Meconish, a full blooded Menominee, and he has a few words he would like to say, and I will interpret for him.

He said he is going to appeal to you people and he wants your cooperation. He wants the committee to tell him, are you going to help him as a full blooded Indian. Are you going to be of any help to him?

He would like to have some kind of reply now.

Mr. MEEDS. It depends on what he thinks help is.

Mr. WESO. He would like to have all those laws relating to termination and any Federal laws that are harmful to him, he would like to have those removed from him and according to the Restoration Act, he doesn't want to wait that 2 year period in solving Indian problems.

He says, what's the matter with me right now, is that I just about can talk.

And he also would like to submit for the record that he would like to have this committee to help all different tribes of Indians, and that is one thing that is his desire in his heart. He would like to appeal to the committee that way.

And he said that he would like an opportunity again tomorrow to be heard again.

And I have another old gentleman back here, Pete Fish. I don't know if it's appropriate or not. He is a full blooded Menominee. He asked me if he could say a few words.

He said he's got a bad cold, and he didn't want to say anything right now.

Mr. **Meeds.** Well, thank you very much, Mr. Weso, and Mr. Meconish. Thank you, sir.

We hope that what we do legislatively will measure up to your expectations, sir.

Will the next witness please come forward.

Mr. White, I see you have prepared statement which by itself would probably take longer than 7½ minutes, so unless there is objection, your prepared statement will be entered into the record at this point and you may summarize.

[The statement follows:]

STATEMENT OF JAMES A. WHITE, FRANCES OSHKENANIEW, THOMAS MATCHOMA, FREIDA BERGEON, LOUISE TOMOW KITCHKUME, JOANNE BASQUEZ, AND GWENDOLYN DODGE WHITE

I appear before your Committee today, as a Menominee Indian and a direct descendant of a full-blooded Menominee Indian, Peter Washinawatok, who devoted most of his spare life to saving this beautiful land for future generations of all Menominee Indians. If you ask me who I represent, I must answer that I represent all Menominee Indians who refuse any longer to be robbed, cheated and swindled out of whatever land we have left. I represent those Menominees who feel they have already given enough, already compromised enough, who already and too often have been the victims of legal thievery and subterfuge by sell out tribesmen and real estate interests. I speak today for those whose voices of the past are now silent but who sacrificed and endured many hardships so that the Menominee Indians of today and tomorrow would have a homeland.

We are not here today to ask for anything that is not our own or that we have no right to. In view of that we are not here today to compromise, for there can be no compromise with justice and justice is what we have been asking for for more years than we care to remember.

Furthermore, we Indians assembled here today, must again assume, as we have assumed in the past, that the distinguished members of this Committee are here today to correct the injustices of the past, and it must begin, not in two years or three years or some indefinite tomorrow, it must begin *now*.

Nineteen years ago the Menominee people, through their congressional representatives, petitioned Congress for some money that was rightfully theirs. The additions that were attached to that single bill were added by a white man from Utah which resulted in the destruction of a land and people and which we are here now asking to be corrected.

One year ago the Menominees again petitioned Congress in the form of another bill, The Menominee Restoration Act. This Act was what the Menominee people were asking for. However, since the time when the bill was introduced on April 20, 1972, several new changes were made and again these changes were not made with the consent or with consultation of the Menominee people.

The first change, Section 6–a, all but defeats the whole purpose of the original Bill. It stipulates that the land controlled by Menominee Enterprises shall not be accepted into Trust by the Secretary of Interior for two years *after* the enactment of the bill. The Menominee people that I speak for have not asked for this, and they have not been consulted about it and refuse to accept it.

The second change, Section 8, excludes a significant number of Menominee Indian students and should be changed to include those members of the Tribe living outside the boundaries of the Reservation and outside the boundaries of Menominee County.

The third change, in Section 7, also made without our consent or consultation extends our hunting and fishing rights to non-Indians and those rights to be regulated by the State of Wisconsin. We refuse to accept that.

The final change, again made without Menominee consent or consultation, allows for the sale of Tribal land.

Members of Congress, Menominee people, the very language used in these additions and changes indicates that the Menominee people were not consulted in these changes. The author of these changes states, and I quote, "I do not advocate the sale of Tribal land, but I can conceive of situations in which a majority of Tribal members might wish to sell a small part of their reservation." That is the kind of forked tongue language that has cause Indian problems throughout the nation, and we refuse—repeat—refuse to accept this new addition.

We did not want to sell any part of our land in the past, we do not want to sell any more land now, we do not want our future generations to sell this land, or any part of it, and if it takes an act of Congress to prevent it, that is what we want.

When the original Termination Act was passed in 1954 and during the interim to when it was executed in 1961, no one questioned, no one bothered about whether the property rights of the Menominee Indians were in jeopardy. Later, Menominee Enterprises entered into a partnership with N. T. Isaacson and Associates and illegally transferred a large portion of Menominee Indian Tribal land to this partnership and illegally sold it to non-Indians. No one at that time questioned or even considered the property rights of the Menominee Indians. Now that the white man owns this portion of land that once belonged to the Menominee Indians, everyone became suddenly concerned over the property rights of these non-Indians. It was the same land—the only difference was—that it is now owned by white men.

Ladies and Gentlemen, Members of Congress, and Members of this distinguished Committee, we all know, because we can all see that there seems to be one standard of justice for Indians and one standard of justice for whites. For the most part this double standard is so insidious and subtle that it can easily be denied and therefore, difficult to prove. Sometimes, however, things happen where it is still as insidious but not so subtle.

When the Indians invaded The Bureau of Indian Affairs in Washington, D.C., the administration called it criminal irresponsibility and destruction of property. When the white men from the White House invaded the Watergate Hotel in Washington, D.C., the White House and the same administration called it overzealous dedication.

A final word regarding some disturbing legislation pending on the state level which was recently introduced in the Wisconsin assembly by Herbert Grover. It calls for a referendum election in Menominee County on whether the Menominee Indians want to return to reservation status, and what they want done with Menominee County if their Tribal status is restored. This is the same kind of confusing tactics, the same kind of confusing language which has victimized the Menominee Indians at the time of Termination and the later referendum which called for the development of economic development zones and which was interpreted by the Voting Trust as consent to sell Menominee land.

We do not need Mr. Grover's referendum to express our desire to return to reservation status, and as far as Menominee County is concerned, let it comprise the land which was stolen from us or let it die.

STATEMENT OF JAMES A. WHITE, ACCOMPANIED BY FRANCES OSHKENANIEW, THOMAS MATCHOMA, FREIDA BERGEON, LOUISE TOMOW KITCHKUME, JOANNE BASQUEZ, AND GWENDOLYN DODGE WHITE

Mr. WHITE. The reason I would like to summarize this statement is that although these people have been pleased by what they have been hearing here this morning, I believe it is imperative for people to hear what I have to say.

I appear before your committee today as a Menominee Indian and as a direct descendant of a full blooded Indian, Peter Washinawatok, who devoted most of his life to saving this beautiful land for future generations of all Menominees.

If you ask me who I represent I must answer that I represent all Menominee Indians who refuse any longer to be robbed, cheated, and swindled out of whatever land we have left. I represent those Menominees who feel we have already given enough, and already compromised enough, who already and too often have been the victims of legal thievery and subterfuge by sell-out tribesmen and real estate interests.

I speak today for those voices of the past who are now silent, but who sacrificed and endured many hardships so that the Menominee Indians of today and tomorrow would have a homeland.

We are not here to ask today for anything that is not our own or that we have no right to. In view of that, we are not here today to compromise for there can be no compromise with justice, and justice is what we have been asking for for more years than we care to remember.

Furthermore, we Indians assembled here today, must again assume, as we have assumed in the past, that the distinguished members of this committee are here today to correct the injustices of the past, and it must begin, not in 2 years or 3 years or some indefinite tomorrow, it must begin now.

Nineteen years ago the Menominee people, through their congressional representatives, petitioned Congress for some money that was rightfully theirs. The additions that were attached to that single bill were added by a white man from Utah which resulted in the destruction of a land and people and which we are here now asking to be corrected.

One year ago the Menominees again petitioned Congress in the form of another bill, the Menominee Restoration Act. This act was what the Menominee people were asking for. However, since the time when the bill was introduced on April 20, 1972, several new changes were made and again these changes were not made with the consent or with consultation of the Menominee people.

The first change, section 6–a, all but defeats the whole purpose of the original bill. It stipulates that the land controlled by Menominee Enterprises shall not be accepted into Trust by the Secretary of Interior for 2 years after the enactment of the bill. The Menominee people that I speak for have not asked for this, and they have not been consulted about it and refuse to accept it.

The second change, section 8, excludes a significant number of Menominee Indian students and should be changed to include those members of the tribe living outside the boundaries of the reservation and outside the boundaries of Menominee County.

The third change, in section 7, also made without our consent or consultation extends our hunting and fishing rights to non-Indians and those rights to be regulated by the State of Wisconsin. We refuse to accept that.

The final change, again made without Menominee consent, or consultation, allows for the sale of tribal land.

Members of Congress, Menominee people, the very language used in these additions and changes indicates that the Menominee people were not consulted in these changes. The author of these changes states, and I quote, "I do not advocate the sale of Tribal land, but I can conceive of situations in which a majority of Tribal members might wish to sell a small part of their reservation." That is the kind of forked tongue language that has caused Indian problems throughout the Nation, and we refuse—repeat—refuse to accept this new addition.

We did not want to sell any part of our land in the past, we do not want to sell any more land now, we do not want our future generations to sell this land, or any part of it, and if it takes an act of Congress to prevent it, that is what we want.

When the original Termination Act was passed in 1954 and during the interim to when it was executed in 1961, no one questioned, no one bothered about whether the property rights of the Menominee Indians were in jeopardy. Later, Menominee Enterprises entered into a partnership with N. E. Isaacson and Associates and illegally transferred a large portion of Menominee Indian Tribal land to this partnership and illegally sold it to non-Indians. No one at that time questioned or even considered the property rights of the Menominee Indians.

Now that the white man owns this portion of land that once belonged to the Menominee Indians, everyone became suddenly concerned over the property rights of these non-Indians. It was the same land—the only difference was that it is now owned by white men.

Ladies and Gentlemen, Members of Congress, and members of this distinguished committee, we all know, because we can all see that there seems to be one standard of justice for Indians and one standard of justice for whites. For the most part this double standard is so insidious and subtle that it can easily be denied and therefore, difficult to prove. Sometimes, however, things happen where it is still as insidious but not so subtle.

When the Indians invaded the Bureau of Indian Affairs in Washington, D.C., the administration called it criminal irresponsibility and destruction of property. When the white men from the White House invaded the Watergate Hotel in Washington, D.C., the White House and the same administration called it overzealous dedication.

A final word regarding some disturbing legislation pending on the State level which was recently introduced in the Wisconsin assembly by Herbert Grover. It calls for a referendum election in Menominee County on whether the Menominee Indians want to return to reservation status, and what they want done with Menominee County if their tribal status is restored. This is the same kind of confusing tactics, the same kind of confusing language which has victimized the Menominee Indians at the time of termination and the later referendum which called for the development of economic development zones and which was interpreted by the Voting Trust as consent to sell Menominee lands.

We do not need Mr. Grover's referendum to express our desire to return to reservation status, and as far as Menominee County is concerned, let it comprise the land which was stolen from us or let it die.

Mr. MEEDS. Thank you very much, Mr. White.

With the exceptions that you mentioned in the bill, and assuming the bill were brought into conformity with your views on those three exceptions, as I recall, would you favor it, then?

Mr. WHITE. The people for the last 10 years have been told this was not possible. They have expressed desire for the last 10 years to return to the same way it was before, and that it what we want, and there is no reason why we can't get it.

Mr. MEEDS. I'm just asking you this. If the bill was made to conform with your desires and with the three exceptions that you mentioned—and I'm not saying it will be—would you then be in favor of the bill?

Mr. WHITE. Yes, sir.

Mr. MEEDS. Thank you.

The gentleman from New Mexico.

Mr. LUJAN. No questions.

Mr. MEEDS. Thank you very much, Mr. White.

Would you state your name for the record, sir, and then proceed?

Mr. PERROTE. My name is John Perrote.

STATEMENT OF JOHN PERROTE

Mr. PERROTE. I am the chairman of the Menominee Indian AIM chapter.

I have a statement on Menominee restoration, Mr. Chairman, with the members of the Menominee Indians AIM chapter to hereby make the following statement concerning the Menominee Indian restoration bill, H.R. 7721, now in Congress.

We will not support the Froehlich sponsored bill, H.R. 7421 in any form. We feel that it is a compromise, and we will not support such action.

We will support the original bill, drafted and approved by the Menominee Indian nation. In so doing, we hereby make the following commitment to the Menominee Indian nation.

We will support the original bill drafted and approved by the Menominee Indian nation in any manner which may become necessary to publicize the fact that the Froehlich sponsored bill, H.R. 7421, is not acceptable to the Menominee Indian nation. We will not compromise ourselves in any way in our demand for justice for the Menominee Indian nation.

Also, I have a letter from the League of Nations, Pan American Indians, to the Menominee people and members of DRUMS. On April 24, 1973, our League of Nations, Pan American Indians drafted and presented to the Congress of these United States the league's letter of support and backing of the Menominee Restoration Act. Shortly after that date, I sent a copy of the league's document to Mrs. Teresa Jacobs, the Secretary of the DRUMS organization at the time our league sent the letter of support of the Menominee Restoration Act to Congress. It was not known to officers of our league that Rep. Harold Froehlich, with the cooperation of certain officers of the DRUMS, had drafted a compromise bill and had sent the bill to members of our national legislature. This bill is now known as the Froehlich bill, No. H.R. 7421.

The word compromise is a bitter word to all loyal Indian officials and workers who unselfishly worked for the best interests of all Indian people. The American Indian life has been one compromise after another since the white invasion and conquest of our lands.

We see the Froehlich compromise bill No. 7421 as nothing more than an instrument designed for the purpose of using the Menominee people to create a political image for Representative Froehlich.

Our League of Nations, Pan American Indians, will not under any circumstances aid or support any action of compromise of any type against our Indian people.

Therefore, we wish it to be known that our league will not support the Froehlich so-called Menominee Restoration bill No. H.R. 7421. Our League of Nations, the Pan American Indians, will only support the original Menominee Restoration Act under H.R. 14803.

Mr. MEEDS. Thank you very much, Mr. Perrote.

Could you stay there for just a moment. I would like to ask you a few questions.

Could you be a little more specific and tell me in what respect you disagree with the legislation before the committee?

Mr. PERROTE. Why was the original bill pushed aside and a compromise made?

Mr. MEEDS. What parts of that compromise do you disagree with?

Mr. PERROTE. I disagree with the whole thing.

Mr. MEEDS. Could you be more specific and tell me what parts of it you disagree with?

Mr. PERROTE. For one, they want the State of Wisconsin to control the lakes and streams as far as fishing goes.

No. 2, we want all the land back, the land that has been sold.

Mr. MEEDS. Well, do you think we can do that in this legislation?

Mr. PERROTE. You can buy it back, can't you?

Mr. MEEDS. I assume that would have to be paid for, yes. Otherwise it would be the taking of property without just compensation in violation of the Constitution.

What else, sir?

Mr. PERROTE. I do disagree with the whole thing because I feel it is a compromise. The original bill that was drafted and approved by the Menominee Indian nation was pushed aside for this bill.

Now, why did they have all these meetings asking the people everything, what they wanted, in the Restoration Act, and then they pushed it back and let Froehlich sponsor a bill——

Mr. MEEDS. That's why I'm asking you these questions, sir. What I'm trying to get to is whether you have some specific opposition—and you have pointed out two respects that are specific—or whether you just have, if you'll pardon the expression, aimless opposition to this bill.

I hear two specific points. I think there is probably one more, pertaining to the 2-year provision, is there not?

Mr. PERROTE. That's another one, yes.

Mr. MEEDS. You've now put your finger on the three differences in the original Menominee bill and the one before the committee.

I will now ask you the same question that I asked of those last witnesses: assuming those three things were corrected, in line with what you suggested, would you then support the bill?

Mr. PERROTE. Yes. Then we're back to the original bill, right?

Mr. MEEDS. Indeed it would be the same thing with a different number. You would support it then?

Mr. PERROTE. Yes, I would.

Mr. MEEDS. Very good.

The gentleman from New Mexico?

Mr. Lujan. No questions, Mr. Chairman.

Mr. Meeds. Thank you very much.

Would you please state your name, ma'am, for the record?

Ms. Jacobs. Teresa Jacobs.

STATEMENT OF TERESA JACOBS

Ms. Jacobs. My name is Teresa Jacobs, and I would like to correct one thing in the letter from the Pan American Indians that was stated.

I was the DRUMS secretary. I was the DRUMS community development secretary, and the reason why I am here is because of the concern for my peoples' rights.

I feel that these rights have been beaten, knocked down, trampled on. They were constitutional rights, and constitutional rights, our constitutional rights have never been considered, and I speak of the Northwest Treaty ordinance which was approved by the Congress of the United States on August 7th in the year of our Lord, 1787.

Section 14, Article of Compact No. 3 of this ordinance deals with the treatment of the Indians:

> The utmost good faith shall always be observed towards Indians. Their lands and properties shall never be taken from them without their consent, and in their property rights and liberty they shall never be invaded or disturbed unless a just and lawful war is authorized by Congress, but laws bounded in justice and humanity shall from time to time be made for preventing wrongs being done to them and for preserving peace and friendship with them.

I feel that the Treaty of 1854 was such a law. It was meant to prevent wrongs done to the Menominee, but this treaty was also a compromise because the Menominees gave up a large portion of their land so that they could live in peace.

Therefore, the passage of a Termination Act in 1954 was a direct violation of our treaty of 1854, and of our rights under the Constitution of the United States.

We, the Menominee people, ask you to remember the oath you took in office to uphold the Constitution of the United States and institute action to erase the Termination Act forever from the books and retroactively recognize the Menominee Tribe as a federally recognized tribe of Indians.

That is my statement.

Mr. Meeds. And how do you propose we correct this at this time? It seems that we both agree that there have been a lot of injustices.

Ms. Jacobs. I feel that the U.S. Congress should recognize our constitutional rights back to 1787 according to the Northwest Territorial Ordinance and the Treaty of 1854 should be recognized as such.

Mr. Meeds. Do you think the passage of this legislation would be a step in that direction?

Ms. Jacobs. Not just a passage, but I feel the Termination Act should be erased from the books forever because sitting on the books, more or less, it took 10 years, 12 years out of our lives and a lot of our people, in the education, we have been denied equal education.

Mr. MEEDS. Thank you very much.

The gentleman from New Mexico.

Mr. LUJAN. No questions, Mr. Chairman.

Mr. MEEDS. Please state your name for the record.

STATEMENT OF ANTOINE WAUPOCHICK

Mr. WAUPOCHICK. My name is Antoine Waupochick. I am going to talk without notes because I didn't figure that we would get a chance to talk. I thought we were just going to listen, and I'm glad of the opportunity.

At the time of termination, or before termination, I was the chairman of the Menominee Tribe. That was our form of government. We had 12 members on our board, and from those 12 members they elected a chairman.

In that year of termination, I was the chairman of the board and so I had to go through with whatever the Council advised me to do. I had to take up one of the items that was run up against me in a bulletin produced by one of our Indian leaders, said I was a member of, I was the fellow that raised the resolution to take up termination. Well, in my position I had to, but I can assure you that when the resolution was brought up I didn't vote for the resolution. There were, I don't know how many hundred that voted for the resolution, but mentioning me within that big pamphlet that was sent out to all the Legend Lake owners and all the members of the State and almost anybody that was for selling the land—it was mentioned that I was a member of DRUMS.

That was the best advertisement I ever got, being a member of the DRUMS, because being a member of the DRUMS is the Menominee people. Those are the people that want to hold this land. The older folks, the reason we got this land was because of our forefathers. They always said, before termination whenever something was brought up, they always said: "What's going to happen to our children, what will they get out of this, who's going to take care of them."

That was the procedure then. It was like this old gent that was here. He was one of the men that fought for our reservation. That was five times the Menominees had to fight for our reservation.

While we were in Washington we had two friends, what we really call friends. One of them was Melvin R. Laird; the other one was John Byrnes. Those are the only two friends we had in Washington. Everyone else was, well, they weren't against us but I don't think they could dare say too much.

In the proceedings of the Congressional Record in the 82d Congress, the first session in Melvin Laird's pamphlet, he says, plea for justice for the Menominee Indian people. In one of the sentences he has in my speech opposing termination on the floor of the House.

On August 1, 1953, I predicted the problem we would face, we face today. That was just one of the sentences. And Congressman John Byrnes concurred with him at that time, and we really got educated when we were in Washington.

Mr. MEEDS. That's fortunate. It never happens to some people. [General laughter.]

Mr. WAUPOCHICK. Well, we really got educated on the procedures of politics. We had to do almost what was told to us, and at that time the Senator, all he had on his mind was to just get us terminated.

Mr. MEEDS. Could you go into that a little more? Tell us just what happened.

Mr. WAUPOCHICK. We had meetings. We had our attorney, Mr. Wilkinson, who is our attorney, and we really didn't pursue too much because we thought that we would get the dirty end of the stick like we say. And the Bureau of Indian Affairs, we expected them to help us out on this termination, but we never got any help. They sort of hedged on it, and I know a number of things that happened.

Anybody that tried to help us, within a week or so, he wasn't around. He was transferred to some other place.

We had to almost keep quiet.

Mr. MEEDS. Did you meet personally with Senator Watkins?

Mr. WAUPOCHICK. Yes, that was another thing.

Am I speaking too long?

Mr. MEEDS. No, I'm very interested in what you are saying.

Mr. WAUPOCHICK. He came here on June 20, 1952, and I took him around as being the chairman. I took him around the plant and I escorted him all over. We took him around. We showed him all our old buildings, all our old, dilapidated homes, and I showed him what termination would do.

I said, these homes are only worth $10, and they wouldn't bring much tax money.

Mr. MEEDS. Did he ever tell you either directly or imply to you that unless you agreed to termination, you would not get the distribution of the judgment?

Mr. WAUPOCHICK. That's right, sir.

In the Congressional Record of—I can't remember, but in the Congressional Record the Menominees introduced a bill—I think it was about three or four lines, and when the House passed it—but when it got to the Senate, Senator Watkins tacked on two or three pages onto the termination bill and we were made to understand that we wouldn't get our $1,500 unless we agreed to termination.

While I'm here on this subject of escorting Senator Watkins, I took him around the mill and one of the things that he wanted was, he wanted the Menominees to run their own affairs.

I took him through the mill, and I took him, in fact, all over the reservation, and he and I walked all the way around together and during my walk with him he asked me, Tony, he said, I always see white people in these positions, these boss positions. Well, I said: "They don't trust the Menominee. They hire white people to run our affairs, and that's the way we have to take it. We don't have much to say." I said.

We took him up to Zoar and showed him the old burial grounds. We showed him to some of our old homes, and like I said, even in Washington it appeared to me that he—that all the statements we made opposing termination, he just said, well, you're good boys, and that is it.

That was the theme of the Government at that time.

I have one little short one here. After termination, and the board of directors did not think Indian. They appointed somebody from out West to come manage our mill, and he brought all of his staff over here, and the Indian didn't have a voice just till this year, that the Menominees had a voice.

Now everything is sort of serene.

Mr. **Meeds.** Tell me, Tony, do you support this legislation?

Mr. **Waupochick.** Yes, I do.

I would like to say I support it now, to get it right now, not in 2 years.

Mr. **Meeds.** I understand.

Mr. **Waupochick.** Because we have more people selling our land here. Every person that moves here wants to sell land, and so my 7 minutes, I believe, is up.

Mr. **Meeds.** The gentleman from New Mexico.

Mr. **Lujan.** Yes.

Before you leave, just to get into the record, to corroborate Mr. Waupochick's statements during the hearings of 1954, March 10, 11, and 12 before the two committees, the House and Senate committees, you voiced that same concern. You said at that time: "It was what I was talking about, the property will be dissipated if we should be on our own." And also as far as the typing of the per capita distribution to termination, Melvin Laird at that time said, "The next thing I knew was that the delegates reported to me they had been informed by Senator Watkins, the chairman of the Senate subcommittee, that unless they committed themselves to a program of withdrawal of Federal supervision, they could not expect to obtain action on their per capita bill.

Mr. **Waupochick.** That's right, sir.

Mr. **Lujan.** So that really shows that you did not all that willingly accept termination, that it was tied on to something that you did want.

Mr. **Waupochick.** That's right, sir.

Mr. **Meeds.** Thank you very much, Tony, for a very eloquent statement.

The next witness.

Would you please state your name.

STATEMENT OF FRANCIS LEON

Mr. **Leon.** My name is Francis Leon and I am a graduate of the college of hard knocks. [General laughter.]

I object to the Froehlich bill very strenuously because I think there is a conflict of interest in this direction. Mr. Froehlich owns property out on Legend Lake and didn't think his concern is about the Menominees or their needs, but he is thinking about his own pocketbook, and I am not in favor of his bill. I want you to know that.

If this comes to a point of law, any attorney will agree with that, that there is a grave conflict of interest. The man is working for his own, and as I see it, if we were to get our restoration right away, we would be freed of all these taxes that are killing us.

We can't wait 2 years. In 2 years we'll be broke.

We could lower our taxes right now on the lakes of the Menominees, and with our taxes lowered, we could certainly see ways of lowering other taxes, I'm quite sure of that, in comparison to our own tax.

It would hurry the day when we get along a little better with our neighbors across the border here and they would have a different outlook on life too.

I'm speaking of good public relations with everybody around us.

Thank you very much.

Mr. **Meeds.** Thank you, sir.

Mr. **Lujan.** Mr. Chairman, before you start I think we should be sure that the record shows—and I do not want to quarrel with Mr. Leon. I visited with him during the noon hour and we had a very nice discussion.

However, the land that Mr. Leon says might be a conflict of interest is not a subject of this bill. That is the matter that's in the courts and has absolutely nothing to do with this legislation, Mr. Leon.

Mr. **Leon.** But I understand there's a movement for another county.

Mr. **Lujan.** Those were discussions this morning with officials from the State of Wisconsin who have to come up with some sort of system of government, and what they would do, but it's not a subject of this legislation in Mr. Froehlich's bill at all.

Mr. **Meeds.** Would you please state your name for the record,

STATEMENT OF RITA BODOH

Ms. **Bodoh.** I'm Rita Bodoh. I'm here to speak against the 2 year transition. I think the tribe needs to get on with expansion as soon as possible so that we can begin to return to being a nearly self sufficient tribe.

I realize that after restoration, that HEW monies are going to have to be funneled in here and the sooner we can get on with this expansion of that tax burden being lifted from us we can phase out these HEW monies and we can return to our former tribal pride.

Another statement I want to make is that when there was this vote for—supposed voted for termination, there was required by the tribe a 75 quorum, which was a wartime measure and it had never been changed, and I believe this vote came up in 1954. So that was an illegal vote.

That's all I have to say.

Mr. **Meeds.** Thank you very much.

As I understand it, you're in favor of this legislation with the exception of the 2-year transition?

Ms. **Bodoh.** That's right.

Mr. **Meeds.** Thank you very much.

The gentleman from New Mexico.

Mr. **Lujan.** No questions, Mr. Chairman.

Mr. **Meeds.** We have time for one more witness.

Is there anyone that wasn't standing that wants to testify? Would you state your name for the record, sir?

STATEMENT OF ISAAC JACOBS

Mr. Jacobs. My name is Isaac Jacobs.

Mr. Meeds. Would you please proceed, sir.

Mr. Jacobs. I think that Jim White's covered just about everything that I wanted to say.

Mr. Meeds. And your main objection to the present legislation is the three matters that Mr. White mentioned? The 2 years, and second allowing the sale of land, and third, the fishing question?

Mr. Jacobs. That is right.

Mr. Meeds. Do you have any other objection to the legislation other than those?

Mr. Jacobs. I would hate to see LaMotte Lake, Legend Lake, and Remote Lake be given up.

I understand that's in the Froehlich bill. I would like to have that knocked off.

Mr. Meeds. The Chair will inform you, sir, that the bill doesn't affect the status of that land from what it presently is, and it is presently in private ownership.

I don't think the bill could go back and eradicate what the former board did with regard to the private ownership and the sale to non-Indians unless there was some way to compensate.

Mr. Jacobs. I wanted to ask Mr. Froehlich a question, when he bought the land. I wonder if it was illegal.

Mr. Meeds. Well, I think that's a matter which is now in the courts, and the question of whether or not it was illegal has not been solved at this time.

Mr. Jacobs. Well, I couldn't answer any more.

Mr. Meeds. The gentleman from New Mexico.

Mr. Lujan. No questions, Mr. Chairman.

Mr. Meeds. Do you have anything further, sir?

Mr. Jacobs. No.

Mr. Meeds. Thank you very much for testifying.

All right, the next witness is a scheduled witness, Mr. Lloyd Powless, who is President of the DRUMS.

Mr. Powless, would you please come forward?

I might say, I thought that that 1 hour period was a pretty good experiment and pretty successful.

I don't know whether some of my older colleagues in the House would agree with me, but I thought it was a good exercise.

Please be seated, Mr. Powless.

You have a prepared statement here. You may read it into the record, or you may summarize, and we will enter it into the record. Proceed whichever way you wish.

STATEMENT OF LLOYD POWLESS, PRESIDENT, DETERMINATION OF RIGHTS AND UNITY MENOMINEE STOCKHOLDERS, INC.

Mr. Powless. Thank you.

Congressman Meeds, Congressman Lujan, members of the committee, ladies and gentlemen.

My name is Lloyd Powless. I am a Menominee Indian, resident of Milwaukee, Wis., and a stock and bond holder in Menominee Enterprises Inc.

I am the national chairman of DRUMS, Inc. and have been delegated to speak on behalf of our membership here today.

We first wish to thank the leadership of this Nation, especially the members of this congressional committee here today, for their interest in and understanding of current Menominee Indian social and economic problems.

We also wish to thank those citizens present here now who have taken time off from their normal duties in order to participate in these hearings.

In the year 1961 three Indian tribes, the Klamath of Oregon, Menominee of Wisconsin, and Osage of Oklahoma, took part in the Termination of Federal Supervision Act.

The Klamath and Osage both sold their assets and paid the income from their transactions to members of their tribe.

The Menominee Indian tribe of Wisconsin, wishing to retain their homeland intact and compelled to arrive at a decision by the requirements of the Termination Act, elected to place their assets, lands, forests, and property in trust with a Wisconsin corporation, Menominee Enterprises, Inc., and restructure their tribal form of government in accordance to the new mandates. The new mandates requiring of course county and State government to supplant tribal government.

Since 1961 we have seen the corporate trust relationship between the Menominee people and Menominee Enterprises at work. Since 1961 we have had the opportunity to view the new county and State governing system at work. We feel both forms, the corporate trust relationship and the county and State governing systems, have shown that much is to be desired and that a change is needed if the Menominee people are to progress.

Under the first decade of the corporate trust relationship, we have seen a sharp and callous erosion of citizens rights. The declaration of individuals, both children and adults, as incompetents without a fair trial or a hearing is an example of this erosion of civil rights.

Under the first decade of the corporate trust relationship we Menominee have seen the encroachment and take over by non-Menominees of our lands.

Under the first decade of the corporate trust relationship we Menominee have seen our hospital and medical services lost. We have watched our children and friends die for lack of proper medication.

Under the first decade of the corporate trust relationship we Menominee have seen unemployment, high school drop-out rates and welfare rolls soar to an all time high in the community.

Under the first decade of the corporate trust relationship we Menominee have seen corporate profits totaling nearly $4 million paid to stockholders annually in the form of bond interest payments, when such profits might well have been used to finance new industries that are sorely needed here.

Under the first decade of county and State government we Menominee have seen our taxes grow from approximately $250,000 annually to the current assessment of over $1 million a year. I believe the exact figure is nearer $1,040,000 today.

From late reports and studies compiled by numerous social scientists, conditions for ths Menominee Indian tribe will not improve measurably unless legislative relief in the form of the restoration bill is sought and acquired.

The type of legislative relief we seek today is contained in the original draft of the Menominee restoration bill as submitted to Congressman Harold Froehlich by the Menominee Tribe earlier this year.

We, the DRUMS organization, support the original draft and are not in agreement with the form that contains amendments to which we object.

We believe the contents of the original bill, before amendment, contains the thoughts and language that best fulfills Menominee hopes and aspirations.

We believe the present restoration bill as introduced to this committee and in question here today includes amendments that are objectionable in content and scope.

The supplementary amendment requiring the placing of Menominee lands in trust following a 2-year waiting period after the enactment of the restoration bill is arbitrary and therefore unnecessary. This particular amendment if included in the bill and acted upon would encourage any unusual encumbrances, such as mortgages, liens, and foreclosures, to be brought against Menominee assets arising from obligations caused by or attributable to a purposeful delay in placing our lands in trust.

The second supplementary amendment allowing the State of Wisconsin to regulate hunting and fishing by non-Menominees within the perimeter of trust lands is a legal contradiction and infringes upon Menominee treaty rights guaranteed by the U.S. Constitution. If Menominee people agreed to this particular amendment, and we do not, we would be actively encouraging trends designed to depreciate those values, especially in the area of contracts such as treaties, existing between Indian tribes and the United States.

The third supplementary amendment calling for the elimination of the provision that prohibits the sale of land within the limits of the reservation has been inserted in the present draft without tribal consideration. This fact alone should be cause to dismiss the amendment from the bill. Should this amendment be allowed, its final effect would be to seriously endanger the purpose of the restoration act itself by permitting land sales and risk opening the door to such objectionable activities, such as land speculation, with its attendant misuse and abuse of aboriginal rights; resource depreciation, as exemplified in strip mining and lake developments; and displacement of native peoples through social and economic pressures that have historically worked against the general betterment of the American Indians.

Senators William Proxmire and Gaylord Nelson generally agree that these added amendments as contained in H.R. 7421 are not essential to the Restoration bill and in addition do not reflect the wishes of the majority of the Menominee people.

We therefore ask this committee for your endorsement of our restoration bill as originally submitted.

Thank you.

Mr. MEEDS. Thank you very much.

I don't want to embarrass either you or your attorney, but he gave us some legal advice here a little while ago which, evidently, you are not following. He indicated that he felt the State of Wisconsin already had the authority under Public Law 280 to regulate non-Indian fishing and hunting rights in the State, even on reservations or even on Indian lands.

Do you agree or disagree with that?

Mr. POWLESS. Well, in drafting this statement I didn't consult with Attorney Preloznik.

Mr. PRELOZNIK. I think Mr. Powless's concern goes more to your concern that language such as that may imply that the hunting and fishing rights may be given to non-Indian people and at the present time the Menominees are very anxious to prohibit any non-Indian hunting and fishing on their private lands, and I think this may be some of the confusion. Public Law 280 does give the State the right to enforce the laws civil and criminal, against non-Indian people but the hunting and fishing rights, we agree, were never granted to the non-Menominees. Therefore, that is subject to litigation and is really not part of this bill.

Mr. MEEDS. I see. Mr. Powless, under the bill there is a provision of a vote of the people to choose, to select a group of people who will draft a constitution. Then, there is a vote of the people to accept that constitution, and then there is a vote of the people to elect the people who might be prospective office holders under the constitution. This is, all in all, two or three votes of the people.

Don't you think it might be better to leave to the people that final question of alienation of land, perhaps by making a constitutional provision against it and then subjecting that constitutional proposal to a vote of the people as must be done under the terms of this legislation?

Mr. POWLESS. Well, my feelings are that the termination act itself supposedly does not infringe upon Menominee treaty rights. The contents of this present bill, H.R. 7421 reiterate the same provision in the treaty.

I feel that the treaties protect Indian hunting and fishing rights. If they aren't included in the treaty, then I feel that the Menominees could make some constitutional changes to that effect.

Mr. MEEDS. But you would be in favor of an absolute prohibition against the sale of Indian land by the tribal authorities by all of the people in any way, is that correct?

Mr. POWLESS. Our organization is against that provision, against the sale of land.

Mr. MEEDS. If a constitution were adopted pursuant to this legislation which prohibited the sale of land, do you think that would meet your objection?

Mr. POWLESS. Would you mind rephrasing that?

Mr. MEEDS. I say, if a constitution for the Menominee people were adopted under the terms of this legislation, which constitution prohibited the sale of lands, of Menominee lands or trust lands as that time, would you think this would meet your objection against the sale of land?

Mr. PRELOZNIK. Mr. Chairman, could I just explain one other problem, why the DRUMS organization took that strong position.

They have been working with HUD to develop housing here on the reservation and because there was no express, explicit prohibition to sell land HUD has been insisting that they must convey the land to the housing authority and convey it out of the tribal property and assets.

Without a specific prohibition like this, there is always that demand and pressure on them to sell the land and if it is within their constitution it could be changed only by the procedures outlined with the Bureau of Induan Affairs and the Secretary of Interior as they relate to Indian tribes.

This was the fear that the DRUMS organization had and all of the Menominee people had, and why they insisted on this specific provision within the particular act. They wanted no authority at all to convey land because they were afraid the pressures might compel them or force them to sell lands at some future time.

Mr. **Meeds.** The gentleman from New Mexico.

Mr. **Lujan.** Thank you, Mr. Chairman.

This morning we had testimony that some members of the Menominee tribe, after the land moved into ownership by the Corporation, purchased the land on which their homes were built. Is that correct?

Mr. **Powless.** Yes.

Mr. **Lujan.** Now, does your objection extend to that person who bought the land on which his house was built, being able to sell that particular piece of ground?

Mr. **Preloznik.** The present position that the Menominees have taken is that there is now a moratorium on all sales of land including lands to Menominees, that in exchange thereof they have adopted a policy to lease land to Menominee rather than to sell it.

The fear is a real fear, that as pressures, economic pressures are brought to bear on individual Menominee, and non-Menominee offer them prices that they cannot turn down, that they are tempted to sell this particular land that they have acquired from the corporation and this has occurred in the past.

Mr. **Lujan.** Then what happens if a man pays, say, $3,000, the amount of his bond, to the Corporation in return for the land?

What happens to those $3,000, first of all, and secondly, he has got a piece of property that he can't sell.

Mr. **Preloznik.** Well, one, that land is not subject to this legislation. It could be conveyed back to the Corporation and then the Corporation could then convey it to the Secretary of Interior if the individual who is the owner decides to do that.

There was a provision in the bill which specifically permitted this to be done in the original bill as it was introduced, and as it was supported by the Menominee people. This is not in the present bill.

There are some people who feel that that is not necessary, but at any rate the individual who acquires that land did have a provision on that deed that the Corporation would have the first right of refusal if he sells it, but because of the economic plight, the Corporation has been in, and because the offer has generally been for a higher sum than $3,000, it has been difficult for owners on the Corporation to reacquire, so that the land was not sold off to non-Menominees.

Again, that land is not part of this particular bill. There may be some litigation that would involve that.

Mr. LUJAN. Yes, I understand; that's in court. But my understanding is that the objection being raised to the sale of any land, say, within the boundaries of what was the Menominee reservation, but that objection does not extend to lands which are presently private lands, by private, meaning individual?

Mr. PRELOZNIK. That is correct. That land is no longer a part of the assets of the tribe for Menominee Enterprises and is not a subject matter of the legislation.

Mr. LUJAN. That's all.

Mr. MEEDS. Thank you very much, Mr. Powless, for your statement.

We appreciate your coming.

We're going to have another little deviation from the schedule. The people who were to have appeared with Ms. Deer, who testified from the Voting Trust, Carol Dodge and Delores Boyd would like an opportunity to present statements.

STATEMENTS OF CAROL DODGE, DELORES BOYD, AND JOAN FISH

Mr. MEEDS. All right, Carol, would you like to speak first, please.

Ms. DODGE. My name is Carol Dodge. I am presently director of the Menominee Community School and also serve on the board of trustees for the Menominee Enterprises, Inc.

Ironically, while the termination plan assumed and promoted self-determination of the Menominee people, the final act of Congress and ensuing political designs, deprived us precisely of that. This was so, not only in our business enterprises, but in the fields of government and especially education.

For educational purposes, Menominee County was joined with Shawano County School District No. 8, when the Menominee Indian Reservation became a county in 1961. Since that time, massive amounts of Federal moneys have been granted to the school district No. 8, based upon the educational needs of Menominee children. Along with these Federal moneys, Menominee County taxpayers have contributed hundreds of thousands to this school district for the education of the Menominee children.

This was done in order to supposedly develop the general educational level and experience of the tribe. However, from my experience in dealing with the public school system, the statistics will be entered into the record and the investigation completed by the Department of Health, Education, and Welfare which showed five major areas of prejudicial conduct by the district toward Menominee students, indicates the present school structure created because of termination has failed miserably. It has not only harmed Menominee students, but the economic, social, and cultural structure of the county as well.

As a Menominee and educator I feel very frustrated and angry when I see what has been done and is still being done to our children. And as a trustee for the Enterprise I am deeply concerned about the future of our business when I see the low educational level that still prevails.

I firmly support restoration for many reasons. But I believe that restoration should aid the Menominee people by putting the control of Menominee education back where it belongs in the hands of the Menominee people.

Mr. Meeds. Thank you very much. And I see you have an addendum to your statement. If there is no objection, they will be entered at the end of your statement.

Without objection, so ordered.

[The document referred to follows:]

ADDENDUM

STATEMENT OF THE PROBLEM

It is the belief of the Menominee County Education Committee, Inc., that the public school system which Menominee County students attend is detrimental and results in serious problems because of several reasons:

1. Lack of effective control of the education of their children by Menominee County parents.

2. Many Menominee County students are transported long distances which makes it difficult for them to feel a part of the school. It is also difficult to participate in extracurricular activities (student government, clubs, sports, etc.)

3. The present curriculum is not geared toward the life experiences and needs of Menominee County students.

4. The present learning environment has an adverse affect on the attitudes and achievement levels of the Menominee County students.

The effects of this learning environment cause the Menominee County children to fall increasingly behind district and national achievement norms as they progress through school. For example:

1. The 1972 senior class's 6th grade profile (see Chart 1) is an indication of the problems this class had upon entering junior high.

However, this detrimental effect starts in the primary grades indicated by the present 1972 freshman class's 3rd grade profile (see Chart 2).

2. The effects of the problems alluded to above results in a failure rate that increases through high school. For example, during the 1971–72 school year at the senior high level:

a. 46% of the Indian population failed one or more subjects the 1st quarter.

b. This increased to 54% 2nd quarter and 56% 3rd quarter.

When the Menominee County students enter middle school, negative attitudes and poor achievement levels result in discipline problems for the students. For example:

1. During the 1971–72 school year there were 286 suspension cases at the junior high level. Of these, 257 involved Indian students and 29 involved White students.

2. There were 120 students involved in these suspension cases, 96 were Indian and 24 were White.

3. Forty-eight percent of the Indian population were suspended compared to 5% of the White population.

As a result of the above problems, there is an increasing number of Menominee County students being sent to youth correctional institutions. Of the students who enter senior high school, the average completion rate is between 25% to 30% depending on the year surveyed. For example:

1. The present senior class in Shawano High from Menominee County had a 31% completion compared to the 83% White Completion. Compared with other groups, the completion rate of Menominee County students is considerably lower. (See Chart 3 for definition of completion or noncompletion percentages.)

The above situation does not take into account the elementary school children. There are extremely poor student/teacher relations. Individual problems are rarely taken into account. There is a high incidence of chronic low-achieving students, who need systematic tutoring and individualized attention presently unavailable to them. This is at all levels (1–12).

The blame for not learning is shifted onto the Indian students and their parents and there is little effort to help our parents and children feel that they belong and can contribute to the school system.

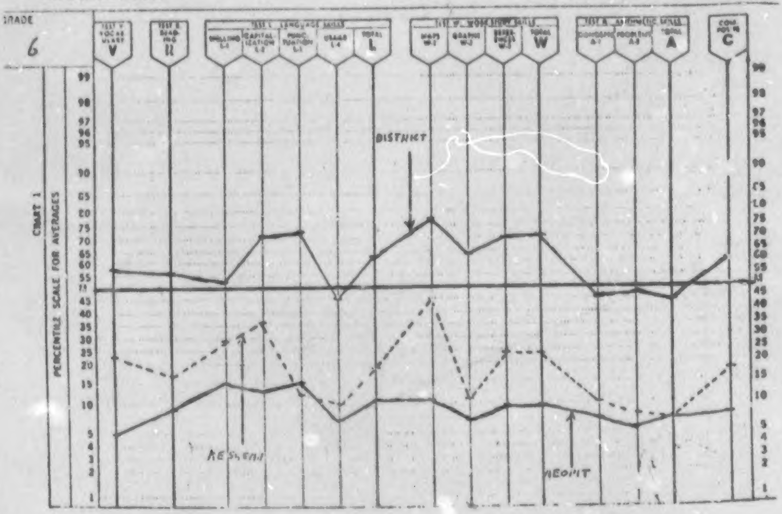
PROFIL. CHART FOR AVERAGES IOWA TE.TS OF BASIC SKILL.

Figure 6

LEGEND MidTERM 19
COMPARISON KESHENA +
NEOPIT WITH DISTRICT

Joint School District #8 Shawano, Wisconsin
NAME OF BUILDING OR SYSTEM

1/21/66
DATE



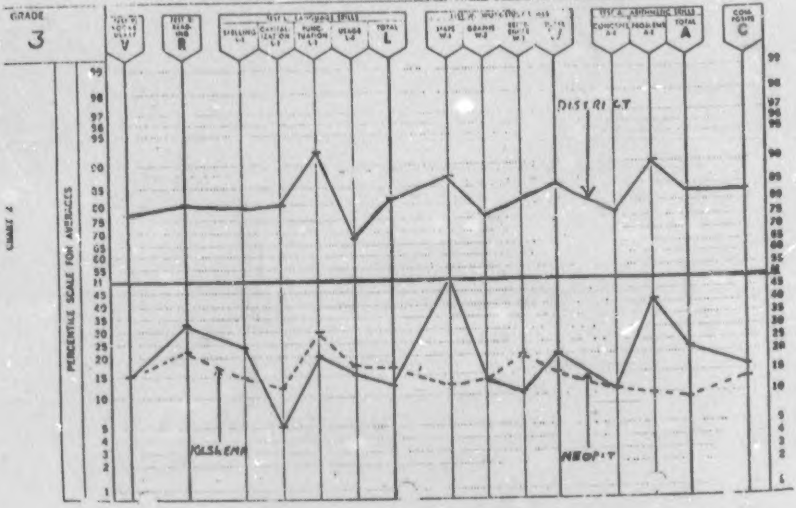
PROFILE CHART FOR AVERAGES IOWA TESTS OF BASIC SKILLS

Figure 3

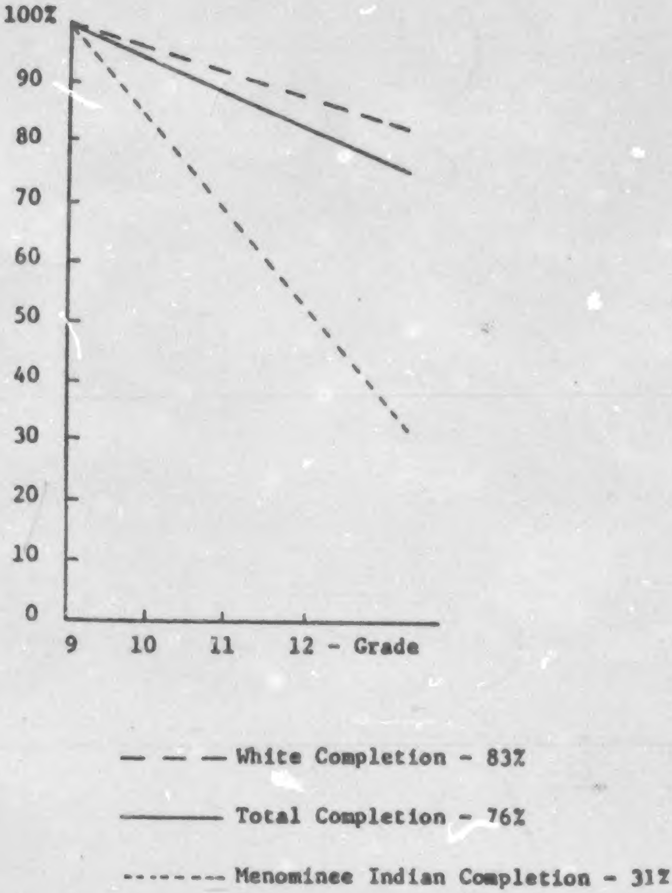
LEGEND MidTERM 1966
COMPARISON KESHENA +
NEOPIT WITH DISTRICT

Joint School District #8 Shawano, Wisconsin
NAME OF BUILDING OR SYSTEM

1/21/66
DATE



PERCENTAGE OF 1968-69 9TH GRADE ENROLLMENT THAT COMPLETED IN 1971-72 SCHOOL YEAR FROM SHAWANO HIGH
CHART 3



Ms. FISH. Mr. Chairman, my name is Joan Fish.

Mr. MEEDS. Please proceed, ma'am.

Ms. FISH. I am reading into the record for Mrs. Delores Boyd, who is a director of headstart and a member of the Menominee Enterprises board of trustees.

It is the purpose of this presentation to relate the effects of termination on a preschool child. It is not necessary to reiterate the all too familiar statistics generally used in the indictment of the termination act.

It goes without saying that the traumas inherent in the ill conceived termination act has touched every Menominee regardless of age or background. And the preschool child was no exception.

In 1967, when the Office of Economic Opportunity declared Menominee County a poverty area; one program that was targeted for the county was Project Headstart. Headstart works with children ranging from 3 months to 5 years old; and in setting up the original program we discovered that this segment of the Menominee population was perhaps the most neglected in the county. The child that participated in headstart in those first few years was generally a child in poor health, who seldom if ever saw a doctor or a dentist, and was born without the benefit of comprehensive prenatal care. Yet today, there exists an uneasiness about seeking medical care in the white community. A contributing factor for this lack of medical care is, of course, the shortage of money and a curious reluctance to seek aid from social agencies.

Due to the perseverance of the headstart program, the health problems of participating childrn have been alleviated.

In the sixties it was the goal of headstart to raise the poverty child to a level where he could compete on equal terms with the white middle class child and in doing so we at Menominee headstart tried to alter the basic values of the Indian child. After all, these children were not legally considered to be Indians. It did not take us long to realize that even a government as distinguished as the American Government could not pass a law transforming Indian children into white middle class children. Since this realization, we have abandoned the goal to remake the Indian child in the image of the white man.

For 12 years, our children have lived in the insecurity that has been the most prevailing atmosphere since termination. And it has taken its toll. We have noted that children coming into the headstart program reflect this insecurity and lack of identity. One effect of the reservation system has been the conservation of those aspects of native culture that have survived 300 years of contact with the white man. Since termination, the Menominees have no protection whatever against the destruction of its very identity.

We at headstart have in the past and are today making a concerted effort to revive the Indian spirit by reinforcing in the Indian child a pride in his heritage and in himself. But it is not enough; we cannot possibly reach all the children in Menominee County; and even if we could it would not be enough. For these children are not legally Indian, they will have none of the advantages Indians have and will be offered none of the protection that having an identity carries with it. Yet, these beautiful little non-Indians will someday be called chief or squaw, they will drive Indian cars, and they will have to contend with the image of the drunken Indian.

As was stated before, it is not the intent of this presentation to add more statistics to your already vast collection. But, that is only because there are no comprehensive statistics concerning the preschool child and termination. Not yet.

I prefer to think of these children as the greatest resource the Menominees have, and not just becoming tomorrow's statistics for the case against termination.

Mr. **Meeds.** Thank you very much.

Carol, in your statement you say that massive amounts of Federal moneys have been granted to Shawano School District No. 8 based on the educational needs of the Menominee children.

Now under what programs are those funds being funneled into the Shawano school system?

Ms. **Dodge.** Well, I believe when we were first made a county, at the termination, they got quite a large sum of money from the Melvin Laird Act. I don't know exactly how much, but it was several thousand dollars.

They also got quite a bit of money through the various title funds.

Mr. **Meeds.** Title I of the ESEA?

Ms. **Dodge.** Title III and title VII, and these were all received on the educational needs of Menominee children.

Mr. **Meeds.** They haven't received any Public Law 874 funds or any Johnson-O'Malley funds?

Ms. **Dodge.** No; we are not eligible for Johnson-O'Malley.

Mr. **Meeds.** Both of which, if they were serving Menominee children—would be received if the Menominee were restored to Indian status, to Indian trust status?

Ms. **Dodge.** Yes.

Mr. **Meeds.** From reading this statement and the appended portion thereto, I get the feeling that instead of going uphill, education is going downhill.

Ms. **Dodge.** It certainly has.

Mr. **Meeds.** Instead of the students spending more days in school and emerging from school with a better education, this is working in exactly inverse order, is that generally correct?

Ms. **Dodge.** Yes.

Mr. **Meeds.** To what do you ascribe that? What is the reason?

Ms. **Dodge.** I believe the school district is not using the right approach with our children.

Mr. **Meeds.** Could you be a little more specific?

Ms. **Dodge.** There are too many assumptions made.

Well, to give an example, most schools go on the assumption that children come to school with a number of words in their vocabulary and they learn to read based on this. It has been my experience while teaching children that they do not have these vocabularies. They do not come to school knowing these vocabulary words, and if you don't build this up in the children it's only natural that they're not going to read as quickly as other children, or if you don't continue to work with them.

Mr. **Meeds**. Would it be your hope that there would be a Menominee school district which would generally encompass what is now Menominee County, which would be run and controlled by the people in this county and locally in this county?

Ms. **Dodge**. Yes; I believe this is necessary.

Mr. **Meeds**. Joan, you talked about headstart programs.

Do the headstart programs here have a dental care component?

Ms. **Fish**. Yes, they do.

Mr. **Meeds**. Do you know what percentage of the people entering Head Start have ever been to a dentist?

Ms. **Boyd**. Practically none of them.

Mr. **Meeds**. Is there a dentist in this county?

Ms. **Boyd**. There was a dentist that came into this county for a day and a half up to a month ago.

Mr. **Meeds**. A day and a half a month?

Ms. **Boyd**. A day and a half a week.

Mr. **Meeds**. And where did he practice?

Ms. **Boyd**. At the courthouse.

Mr. **Meeds**. And that's under what program?

Ms. **Boyd**. The State dental program.

Mr. **Meeds**. And did the people have to pay for that?

Ms. **Boyd**. Well, the adults did. Every child under the age of 19 gets free dental care from the State department.

Mr. **Meeds**. Well, how adequate is that?

I have talked to many young people who appear to need dental care very badly.

Ms. **Boyd**. Well, it isn't adequate enough. Lack of transportation would be one of the big problems.

Mr. **Meeds**. How long has that program been carried out?

Ms. **Boyd**. Three years, possibly.

Mr. **Meeds**. And before that, was there any dental program in the county?

Ms. **Boyd**. Yes, there was.

Mr. **Meeds**. Under what—not Public Health, certainly.

Ms. **Boyd**. Under the tribe, I believe.

Mr. **Meeds**. Thank you.

The gentleman from New Mexico.

Mr. **Lujan**. Thank you, Mr. Chairman.

If my recollection serves me correctly, you had a hospital here run by the nuns, is that correct?

Ms. **Dodge**. It was run by the tribe. I mean, we paid for it and we subcontracted with them.

Mr. **Lujan**. They came in to run it?

Ms. **Dodge**. Yes.

Mr. **Lujan**. I was looking over the figures in 1954 when all this started, the entire health program of $130,000 was paid for by the tribe. There was no Federal participation in it and no State participation.

What happened, did the tribe decide not to continue it?

Ms. **Dodge**. The State closed the hospital because it did not come up to State standards, and I don't believe the enterprise could carry that burden alone with all the taxes.

Mr. **Lujan**. You couldn't have carried it even if it hadn't been closed by the State?

Ms. Dodge. Yes.

Mr. Lujan. What is the Menominee Community School? Is that a tribal enterprise or OEO enterprise?

Ms. Dodge. No; it was started by a group of parents who became very concerned about the number of students who were just roaming around the county.

Mr. Lujan. Is it a private school, then?

Ms. Dodge. Yes; it is private, funded by a private foundation.

Mr. Lujan. Is it a preschool?

Ms. Dodge. No, it's high school. We have ages 15 through 22.

Mr. Lujan. How many students do you have?

Ms. Dodge. Fifty.

Mr. Lujan. How many go to the neighboring county to high school?

Ms. Dodge. None of them.

Mr. Lujan. You have 50. There are other children who go to high school in Shawano.

Ms. Dodge. About 200 in senior high.

Mr. Lujan. Before all this happened, was there a BIA school here?

What was the status of education?

Ms. Dodge. We had the two parochial schools, which had grades up to eighth grade, a day school, and then the students had the choice when they got into high school of where they wanted to go and they had the choice of schools in Shawano or to go to one of the Federal boarding schools.

Mr. Lujan. No schools for the Indian reservation, though.

Ms. Dodge. No.

Mr. Lujan. Was that school a BIA run school?

Ms. Dodge. I believe they had BIA teachers.

However, we paid for it like we paid for the hospital.

Mr. Lujan. The budget in 1954 shows that the Federal participation was $49,000 and tribal participation was $56,000, and it shows that that's about really all the Federal participation that you were getting just in the field of education, not any other as far as you know, is that correct?

Ms. Dodge. Yes.

Mr. Lujan. What would you envision now as being the educational system, assuming that this legislation were to pass, what do you see for the future once this legislation passes?

Ms. Dodge. Hopefully, we would have our own school system.

Mr. Lujan. Are you talking about a BIA school or a school district?

Ms. Dodge. A school district.

Mr. Lujan. Couldn't this happen even without restoration?

Ms. Dodge. I believe it is unheard of in the State of Wisconsin that you withdraw from your present school district. They are always creating new ones, but you don't withdraw very easily from one that has already been created.

Mr. Lujan. Then, you think you would probably create your own school district and it would be supported by those private property taxes? By 874 funds? By tribal funds, perhaps that sort of thing?

Ms. Dodge. YES.

Mr. Lujan. Thank you.

Mr. **Meeds.** Thank you very much ladies.

Now, we will have Shirley Daly, Robert Deer, Ted Boyd and James Heinz who are to appear with MEI.

Please come forward.

My understanding is that they each have about 5-minute statements.

STATEMENTS OF SHIRLEY DALY, ROBERT DEER, TED BOYD AND JAMES HEINZ

Mr. **Meeds.** Do you all have prepared statements?

Mr. **Heinz.** I do not have.

Mr. **Meeds.** If your statement is longer than 5 minutes, would you please summarize it, and we will enter it in the record.

Would you please begin, Shirley.

Ms. **Daly.** Mr. Chairman, members of the committee, I am pleased to be here today.

I am Shirley Daly, a Menominee Indian and a member of the board of directors of Menominee Enterprises.

I am pleased to appear before the House Subcommittee on Indian Affairs and to voice my support of Menominee restoration.

Many people appearing prior to myself have given you facts, figures, and many, many statistics. I understand that these impersonal data are necessary and I am relieved that I did not have to present that. I will relate my feelings to the land and my views as a Menominee person, and also as a member of Menominee Enterprises board of directors.

As a board member I am expected to be concerned with the profitability of the corporation. Interpreted in the broadest sense, this means maximum utilization of all corporate assets. Part of the assets is the land, the earth upon which we live. Yet, as a Menominee I cannot find it in my heart to look upon the land as simply a figure on a balance sheet. Our tribal ownership of land is a very personal thing.

Termination in a sense has forced some Menominees to make this terrible, heart-rending distinction. A distinction which has had devastating effects on the entire tribe.

To explain briefly how the tribe is personally affected by this distinction that was forced on the Menominee, our land has been entrusted to us by the Great Spirit, it is our mother. We cannot put a price tag on the land any more than we can put a price tag on our mother.

The land and the people are one, with no distinctions. To us, there is no nonproductive or submarginal forest land. There is no land surplus within our boundaries. These are the innermost feelings of Indian people that cannot be brushed aside through legislation. That feeling knows no compromise.

I support the Menominee Restoration Act. I feel that we need restoration now! Two years could spell the difference between life and death for the Menominee Tribe as we know it, both literally and figuratively speaking.

I urge you to look upon our restoration favorably, with Menominee views and feelings foremost. We have given up much for the little we have left. Allow us to follow our vision in this land of the free.

Mr. MEEDS. Thank you, Shirley, for perhaps the most eloquent statement of the day.

Next, Bob, would you like to proceed.

Mr. DEER. I have a prepared statement.

I am a member of the board of directors, and I would like to thank the committee for allowing me to appear today. My professional development is in the area of natural resources, and I will limit my brief remarks to that concern.

I also wish to submit a copy of a paper I coauthored to the committee for its information. This paper deals with the Wolf River, and can specifically serve as an illustration of the greater complexities which are affecting the total Menominee resource base.

Prior to termination, we Menominees collectively owned our land and the resources. Property taxes have changed that. No longer is our reservation protected from developmental forces which act in the private sector.

First of all, our land's status changed from that of a Federal reservation to that of a private corporation. The corporation through a period of 11 years sold 5 to 10 percent of the land to Indian and non-Indian individuals. That land is now being resold, speculated upon, and alienated from future tribal reacquisition.

We must have restoration to protect the land from future sales.

The Menominees' water resources have also suffered under termination. Most of our lakes area is now tied up in private ownership. The Wolf River is also threatened with developmental pressures and at one time in the past was being considered for sale to the National Park Service.

The Wolf River was until recently protected by the State lease. However, the lease has expired and not yet been renewed. Without the protection of the Restoration Act, the Wolf River may yield to developmental pressures and be lost to the Menominees.

The Menominees' hunting and fishing resources are also threatened. We had to go to the U.S. Supreme Court to get back our hunting and fishing rights.

We have one full-time game warden and several part-time wardens who are supposed to control and protect 234,000 acres of land. This can't be done.

We Menominees are now in the unique position of being sued by a non-Indian resident of the lakes area for loss of his hunting and fishing rights. This must be a historic first. I've never heard of a non-Indian suing an Indian for loss of his hunting and fishing rights. I can only hope that this case finds its way to the Indian Court of Claims Commission and then an answer will be forthcoming in 40 years or so.

[General laughter.]

Mr. DEER. The Menominee timber resource is also threatened. There is the third year restriction against the alienation of sustained yield timber lands in the Termination Act, but that can be circumvented by withdrawing forest lands from the sustained yield classification. All of the forest land could be sold during my lifetime.

Gentlemen, what we are witnessing is a continuing historical erosion of the Menominee natural resource base. If restoration does not occur we Menominees will eventually lose everything. Our status will be similar to that of the other Indians in the State. We will have fractionated land ownership which precludes effective resource utilization. We will have controversy and conflict over hunting and fishing rights. We will have resorts, summer homes, highways, motorboats, snowmobilers, and tourists abusing and destroying the lands and in the end what will we Menominees have? We will have nothing, without restoration and the protection of the Federal law. We will lose everything.

The Menominee natural resources are unique and worth preserving. Environmentalists recognize these unique scientific, educational, esthetic and recreational values which benefit the public as well as the Menominee.

The John Muir Chapter of the Sierra Club say, "the permanent final solution be found that protects the economic integrity of the Menominee people."

Gentlemen, restoration will do that.

That concludes my testimony. If there are any questions from the committee I will attempt to answer them.

Mr. MEEDS. Thank you very much, Bob.

Mr. Boyd.

Mr. BOYD. My name is Ted Boyd. I'm a Menominee Indian.

I am also vice president of Menominee Enterprises, Inc. I've been with Menominee Enterprises in an executive capacity for over 4 years now.

My statement will be business in nature. At times of necessity I feel I will have to touch upon the social and cultural aspects.

I feel these are items that we can't really put a dollar on, in business terms, but there is a definite value there.

This is what has hurt the Menominees throughout the termination process. The Menominee did not want termination. The Menominee rejected assimilation. This is why termination did not work. It is not working and will not work in the future.

My statement with its accompanying exhibits will attempt to briefly analyze Menominee Enterprises, Inc., from a financial and operational standpoint.

The Menominee Indian Tribal Corporations on May 1, 1961; the effective date of the termination of the Menominee Indian Tribe and Reservation. Though this report will be business in nature, as I previously mentioned, it will at times touch upon cultural and social aspects.

This report will briefly look at termination planning and the financial structure of the corporation as it was set up. It is not the intent of this report to point the finger of blame at anyone for the planning, but merely to point out the shortcomings in the planning and the corporation as it was set up. It will look at corporate operations in the past, the present and attempt, at least, to project into the future.

The various data and commentary point to the restoration of the Menominee Indian Tribe and Reservation as a solution to the many serious problems of the Menominee.

CORPORATE PLANNING AND FINANCIAL STRUCTURE AT TERMINATION

Many faults can be found with the termination process; these can be cited by many different authoritative sources. But this is not within the scope of this document. Suffice it to say, that the Menominee termination was ill-planned and ill-conceived. In my opinion, corporate planning and the financial structure was also ill-planned.

Among the main faults in the setting up of the corporation, that is, Menominee Enterprises, Inc., were the unreasonable restrictions imposed upon the corporation with regard to the use of corporate assets. Other faults have to do with the bonded indebtedness and the owners equity section of the balance sheet. These errors in organization have not only affected the corporation's profitability, but its financial stability as well.

In spite of the fact that the Menominee of their own volition had operated on a sustained yield forestry plan since the late 1800's, the Government imposed such a plan upon them as a part of the termination process. Indeed, the Menominee were among the first in America to plan their forest harvest so that they would be guaranteed an annual cut forever. The imposition of the sustained yield cutting plan, however, severely limited the corporation's flexibility. It could not materially increase its cut in a period of good lumber and forest product markets. Nor could it decrease its cut during a period of poor or falling markets. This lack of flexibility must necessarily have had a substantial adverse effect on corporate operations and profits.

The Menominee were a proven conservation-minded people historically, and could be counted upon to not deplete their forest assets. The sustained yield forest plan did afford the corporation a substantial property tax reduction, but this also probably could have been achieved by other means. Therefore, the imposition of the plan was probably unnecessary.

There also were financial structure problems. At termination, each of the 3,270 enrolled tribal members received a $3,000 face value, 4-percent income bond, plus 100 shares of Menominee Enterprise common stock. The relatively low-grade income bonds resulted in $9,810,000 in bonded indebtedness; an amount substantially in excess of the owners equity in the corporation.

It is my opinion that the corporation was organized with an excessive amount of bonded indebtedness. This viewpoint can be supported by a comparison to industry standards. Not only was the bonded indebtedness excessive, but there was also a glaring failure to provide a plan for redemption or retirement of the bonds, which mature in the year 2000. For this to be overlooked is a case of extreme shortsightedness, on the part of those involved in the process. In my opinion, the Government should have seen that problems would develop.

If the corporation would have organized with, say, 5 percent, $2,000 income bonds, it would have cut its bonded indebtedness by $3,270,000. It would also have cut its cash payout for interest on the bonds by over $65,000 per year. Over a 12-year period this cash saving would amount to over $780,000. There is little question that this approach would have increased the profitability and financial stability of the corporation.

The corporation plant and equipment facilities were substantially outmoded and inadequate at, and long before, termination. This had a major adverse affect on corporate profits, and its ability to compete and expand in the lumber and wood products industry. There seemed to be little, if any, regard for this problem. There was also a gross underestimation of the property tax problems.

Though there apparently were attempts to anticipate the problem that real estate and personal property tax expense would create for the corporation, the extent of the problem was grossly underestimated. Property taxes has been, and still is, one of the greatest problems for the corporation. Special legislation affording tax-relieving aids to the town and county of Menominee, have helped relieve the burden on Menominee Enterprises, Inc. But these have been only of a temporary nature. They most certainly have not solved this problem for the corporation. The real impact of property taxes on the profits of the corporation are dramatized by a review of exhibit A, attached hereto. This is an analysis of the operations of Menominee Enterprises, Inc. since termination.

In every year for the fiscal years 1961 through 1972, the property tax expense throws forestry and mills profits into a loss situation.

Since termination in 1961, the corporation has realized nearly $4 million in property tax expense. The current fiscal year ending June 30, 1973, would bring property tax expense up to approximately $4½ million since 1961. Another look at exhibit A reveals that, if Menominee Enterprises, Inc., did not have the property tax burden, the forestry and mills operation would have shown accumulated profits during this period of almost $1,100,000 since 1961.

I ask that exhibit A and exhibit B of this document be closely examined and the fact that the property tax expense to the corporation has such a tremendous impact on the corporate operating results.

Mr. MEEDS. Without objection, exhibit A and exhibit B will be entered at the end of your testimony.

Mr. BOYD. Stating it simply, the property tax expense is the difference between a profitable and unprofitable forestry and mills operation.

Property taxes are dollars that will be direct savings to Menominee Enterprises, Inc., if the Menominee Restoration Act is passed. They represent a major part of the dollars that will enable the corporation to modernize its facilities and work toward expansion. The property tax cost savings will enable the corporation to become profitable and competitive. The result will be a more financially stable Menominee tribal enterprise.

FORESTRY AND MILLS OPERATING PERFORMANCE

The forestry and mills operations have not been operated as well as it should have been since 1961. But if one considers the tremendous burdens imposed upon it, it has done surprisingly well. The burdens of poor termination planning, obsolete equipment, bond interest, and the huge property tax burden were simply too much to overcome. Forestry and mills operations are will summarized in exhibit A.

A historical and current financial analysis of Menominee Enterprises, Inc., is attached as exhibit B. The report covers the period

1969 to the current fiscal year as of March 31, 1973. The analysis reveals things that have been mentioned previously in this report, that is, that there is an excessive amount of long-term debt, mainly the bonded indebtedness. It supports the idea that not enough money was placed in the net worth section of the balance sheet. It also reveals a historically low profit margin.

Another thing that is quite clearly revealed is the general deterioration of financial condition and operations during the Legend Lake land sales years, specifically, 1969 through 1972. The profits from land sales did not result in the improved financial condition that was expected.

I believe that this examination on financial analysis substantially bears this fact out.

An examination of the analysis during this period reveals that Menominee Enterprises, Inc., deteriorated from a liquidity standpoint during this period. It can easily be seen that the net working capital decreased sharply. The current ratio and acid test ratio of the corporation showed a corresponding decline. The result was a reduction in the financial stability of the corporation.

The profitability of the forestry and mills operation also deteriorated during the Legend Lake land sales years. This is shown in examining the gross profit margin and gross profit margin percentage.

In short, Menominee Enterprises, Inc., suffered from an operational and financial stability standpoint in the Legend Lake land sales years. The main reason for this is probably the strong objection of tribal members to land sales. From this it can be concluded that land sales is definitely not a solution to the problems of the corporation, nor of the Menominees.

PRESENT OPERATING PERFORMANCE

A look at the financial analysis of the corporation as of March 31, 1973, reveals a general process of recovery and improvement. The liquidity tests have improved sharply since the cessation of land sales. The improved operating results probably reflect, to a great extent, a renewed spirit among employees and shareholders in general.

The attitudinal improvement is undoubtedly the result of the cessation of land sales and a renewed hope for a return to reservation status. It is difficult to put a dollar value on attitudes and people in business terms, but there is a definite dollar value there. This is one of the main things that will cause improved operating and financial results in the future, if Menominee restoration is achieved.

Several conclusions can be drawn from the Menominee experience with termination. The overall effects of termination have been bad for the Menominees. Sincere attempts have been made to make termination work, but the plain fact is, it has not worked. It has not worked because termination involved an overall attempt at assimilation of the Menominee into the dominant white society. The Menominee have overwhelmingly rejected assimilation.

It can be concluded that land sales is no solution to Menominee problems. Not from a financial, nor from a social and attitudinal viewpoint. In fact, the long-term effects of land sales are extremely detrimental as an approach to the solution of Menominee problems. The apparent effect of land sales is to adversely effect the forestry and mills operations and impede expansion projects. During a period of time when the corporation should have been moving forward, it has been moving backward from an operational standpoint. The bulk of this can probably be attributed to land sales.

It is clear that the Menominee are overwhelmingly in support of a return to reservation status, a reservation status that will allow self-determination. It is also clear that the Menominee desires to retain his land and identity. These are factors that will have substantial favorable effects on tribal enterprise operations and finances. These are the factors that will enable the Menominee to progress.

These problems can be solved, and dreams realized with passage of the Menominee Restoration Act.

[The documents referred to, exhibits A and B, follow:]

EXHIBIT "A"

Menominee Enterprises, Inc.—Summary of Forestry and Mills Operations for Fiscal Years 1961 Through 1972

For fiscal year ending—	Forestry and mills operation: Total net sales	Forestry and mills operation: Net operating profit	Bond interest expense	Property tax expense [1]	Forestry and mills net (loss) [2]
June 30, 1972	$4,865,500	$122,000	$224,200	$607,300	($709,500)
June 30, 1971 (9 mos.)	2,526,300	235,200	349,000	278,800	(392,600)
Sept. 30, 1970	3,394,800	306,000	356,400	315,400	(365,800)
Sept. 30, 1969	3,667,400	363,300	366,400	308,200	(311,300)
Sept. 30, 1968	3,245,300	373,900	374,400	300,100	(300,600)
Sept. 30, 1967	3,561,100	305,900	376,900	330,000	(401,000)
Sept. 30, 1966	4,078,800	744,500	377,400	417,200	(50,100)
Sept. 30, 1965	3,738,100	728,300	378,900	392,800	(43,400)
Sept. 30, 1964	3,184,800	552,900	381,500	332,400	(161,000)
Sept. 30, 1963	3,365,400	607,600	385,600	232,800	(10,800)
Sept. 30, 1962	2,801,600	637,900	383,800	305, [illegible]	(56,300)
Sept. 30, 1961 (5 mos.)	1,660,700	218,900	163,100	164, [illegible]	(108,700)
Total				3,984,900	(2,911,100)

[1] Reported on an accural basis.

[2] This is the net loss before other income and expense items. It is the result of forestry and mills operations alone.

Source: The above figures are taken from detail Auditor's Reports for each fiscal year.

EXHIBIT "B"

Menominee Enterprises, Inc.—Financial Analysis-Ratios March 1973

	For fiscal years ending—: Sept. 30, 1969	For fiscal years ending—: Sept. 30, 1970	June 30, 1971 (9 mo.)	June 30, 1972	Current yr. at Mar. 31, 1973	Industry average [1]
Liquidity tests:						
Current assets	$1,944,600	$2,507,200	$1,764,000	$2,096,100	$1,905,600	
Current liabilities	498,400	705,000	996,500	1,149,500	811,400	
Net working capital	1,446,200	1,802,200	767,500	946,600	1,094,200	
Current ratio	3.90:1	3.56:1	1.77:1	1.82:1	2.35:1	2.43:1
Acid test ratio	2.03:1	2.19:1	.75:1	1.02:1	1.23:1	N/A
Leverage tests:						
Debt ratio, percent	51.7	49.7	49.9	50.4	49.7	N/A
Fixed assets to net worth, do	183.2	168.0	172.2	174.0	170.9	58.0
Long term debt to total capitalization, do	49.0	49.7	44.8	44.5	47.3	N/A
Current debt to net worth, do	5.7	7.4	10.4	12.0	8.4	29.7
Total debt to net worth, do	110.6	101.2	102.3	103.9	98.9	59.3
Profitability tests:						
Net sales	$3,667,400	$3,394,800	$2,526,300	$4,865,500	$3,953,100	
Cost of sales (including fair market value charge)	3,666,300	3,313,200	2,515,100	4,979,700	3,636,900	
Gross profit (loss), as adjusted*	1,100	81,600	11,200	(114,200)	316,200	
Gross profit margin, percent	0.03	2.40	0.44	(2.35)	8.00	22.21
Net profit on net worth, do	4.87	8.56	4.13	0	1.25	9.85
Net profit on net working capital, do	29.40	45.16	51.38	0	11.02	22.49

[1] Source: Dun & Bradstreet Reports.

Mr. Meeds. Thank you very much, Mr. Boyd.

May we hear from you, Mr. Heinz.

Mr. Heinz. My name is Jim Heinz. I am employed by the Menominee Enterprises as a forester since 1965.

I am not an Indian. I live locally in the area, Shawano.

As Mr. Boyd alludes to in his statement, sustained yield was born in Menominee County. You've read, I am sure, the periodicals where Weyerhauser has a tremendously successful sustained-yield program. They are not the originators of the program. It was inaugurated in Menominee County and the record so shows that.

Many testimonials here today have alluded to the land. I would like to go into some short detail to describe that land.

There's 234,000 acres encompassing Menominee County, on which stands some of the finest old growth hardwood, pine and hemlock that grows in the lake States. There's never been any question about the quality of timber that grows in Menominee County. It is the largest contiguous stand of timber in the State, in the lake States.

Nobody has the stand of timber, in a contiguous area, that Menominee Enterprises owns. All the native species of the State of Wisconsin grow in the county, prolifically, some better than others.

The white pine stands in Menominee County are without parallel in the lake States. The yellow beech, the hard maple, the basswood, the elm are without equal in size or quality.

Since the tribe went into the sawmilling business in the early 1900's, sustained yield has been practiced on these lands. At the time of termination, as Mr. Boyd indicated, sustained yield was tacked to the termination proceedings and involved in the Termination Act.

In reading the Act as proposed by the Tribe at the present time, there is alluded to a type of sustained yield be performed as has been in the past. This is the area that I am concerned with.

This is the area that the tribe has to give much consideration to. It can be abused, and it can be worked with. The tribe has to make a decision. The committee has to make a recommendation, how best to handle this to insure that sustained yield to some degree is practiced on the land.

This land will not look like what it does today if this practice had not been invoked many, many years ago. One only has to go up into an airplane to survey the surrounding area. The Menominee County at 30,000 feet looks like a green postage stamp surrounded by acres of corn, oats, any type of farm product.

There is no question that sustained yield should be a part and parcel of this Act. At the present time the DNR acts as a watchdog over the cutting of our products in the forest. It is up to the Tribe to determine, to make recommendations or it is the committee's responsibility to make recommendations, whether the BIA, whether the DNR, or whether the Tribe, after a sustained yield plan has been approved by the Secretary as written in the plan with the cooperation of the restoration committee of non-Menominees.

At that point the big decision should be made. An important decision will have to be made. The Menominees, I feel, can handle the job themselves. They're going to have some guidelines. They're going to have to have some consulting help when the problems arise but there is the ever present danger of overcutting due to the pressing economic demands, and other factors that could develop into a management that might not be as close to the woods as the average Menominee shelter is.

It has been my experience in the 8 years that I have worked here that the Menominees are quite close to their land. If a practice that would be detrimental to the good silva-cultural handling of the forest was invoked, there would be many Menominees who would object to this practice.

They are used to seeing the land cut in a certain way here. All of the trees are never cut. Trees are always left standing. They can just about gauge how many trees will be left standing before an area is cut, and then after it's cut there should be so many trees left standing. If you say at this point in time that illegitimate cutting was made, there would be many shareholders who, I'm sure, would not be too long in either signing a petition demanding that the governing board or whoever is in power here, if the Act would be passed, there would be numerous Menominees objecting, requesting the reasons why this practice is being done in the fashion that it is.

I can't stress the importance any more than the practicality of having either a watchdog; either the Menominees are going to do it, the BIA is going to do it, or the DNR is going to do it.

Covering the forest now there is 1 billion 500 million feet, board feet, of timber of this land. It is predominantly pine, hardwood, pine and hemlock. This evaluation was made through a very sophisticated type of inventory which is commonly practiced by many large corporations in the country. It is not foolproof by any means, but it is the most accurate way of determining a given volume of board feet on such extensive acreage as Menominee Enterprises owns.

This billion and one half was determined in 1970. In 1963 an inventory was also made and approximately the same volume was there then, within 10 million feet.

For the committee's comparison, we cut something more than 200 million feet off the forest between 1963 and 1970. This is nature's only renewable resource. Trees grow. We have to cut trees to make trees grow. Trees cannot stand by themselves without being cut. They grow old; they have to be cut.

If we want to preserve the forest this is the name of sustained yield.

That's all I have.

Thank you.

Mr. MEEDS. Thank you very much gentlemen.

I have several questions.

Do you deal, Mr. Heinz also with the sawmill itself or just the forests?

Mr. HEINZ. My expertise is with the woods; however there is a steering committee that does deal with problems of the mill. Mr. Boyd, Mrs. Wilber and myself are the three man steering committee at the present time.

Mr. MEEDS. Pardon me the reporter has to change his tape. Why don't we take 5 minutes?

[A brief recess was taken.]

Mr. MEEDS. The committee will be in session.

Mr. Boyd and Mr. Heinz, we have some questions regarding the prospects of the mill.

My question was, just before we went off the record there, how many board feet were processed last year.

Mr. BOYD. In the last fiscal year?

Mr. MEEDS. Approximately.

Mr. BOYD. Approximately 15 million board feet.

Mr. MEEDS. And the year before that?

Mr. BOYD. That was a 9 month year. In 1972, the fiscal year ending June 30, 1972, it was 16,155,000 board feet of lumber production.

In 1971, that was a 9 month fiscal year, there was 13,860,000 board feet production.

Mr. MEEDS. You are averaging somewhere around 16 million board feet production per year?

Mr. BOYD. That is right.

Mr. MEEDS. Do you feel your forests are on good, sound forestry practices, Mr. Heinz, and would bear more of an annual cut than that?

Mr. HEINZ. Mr. Chairman, this is predicated on several things. We have, in effect, cut more than Mr. Boyd is alluding to here. As the logs that have gone through the sawmill, some species do not lend themselves to sawmill cuts. Some species go out as pulpwood.

The market dictates pretty much which species in which volume will be cut.

Mr. MEEDS. Then what has been annual allowable cut?

Mr. HEINZ. Our allowable annual cut is somewhere around 26 million feet of all products.

Mr. MEEDS. I see. And that is about what you feel this will sustain on good, sound forestry practices?

Mr. HEINZ. That's correct.

Mr. MEEDS. You have no immediate idea of increasing that?

Mr. HEINZ. Not at the present time.

Mr. MEEDS. Do you have any problems at the mill with antiquated equipment or problems of new and modern equipment to compete with a modern mill?

Mr. BOYD. We presently have a mill modernization program that we are in the midst of. We are in the second year of this modernization program.

We are in the first part of the modernization which occurred last summer, at which time several new pieces of equipment were installed.

Presently we want to get back into production as soon as possible and we are not, this year at least, doing anything in mill modernization. Perhaps next year we will go back into modernization and, as I mentioned, it is a 5-year modernization plan and we're in the second year presently so we do have time to meet this.

This is a rather extensive plan. It will cost approximately a quarter of a million dollars.

Mr. MEEDS. How many people do you hire at the mill?

Mr. BOYD. We employ, whether we operate one or two shifts. If we operate one shift we employ about 175 people.

Mr. Meeds. Well, you're certainly operating two shifts now, with the current price of lumber, aren't you?

Mr. Boyd. At the present time our log supply is low, and Mr. Heinz can explain more why our log supply is low at this time, but our log supply is low. We are only operating on a one-shift basis presently.

Mr. Meeds. That's then 175?

Mr. Boyd. One hundred seventy five.

When we operate with two shifts we employ about 200 to 210 people. We are responsible for the employment of an additional 75 to 90 people through independent logging contractors.

Mr. Meeds. So the logging industry has a present job worth of somewhere around 300 people, is that right?

Mr. Boyd. Yes.

Mr. Meeds. How much do you pay? What is your wage rate at the mill?

Mr. Boyd. Our minimum wage rate at present is $2.62 an hour.

Mr. Meeds. And are all of these people, or at least substantially all of them Menominees?

Mr. Boyd. Yes, 95 percent.

Mr. Meeds. Are Menominees in top management positions?

Mr. Boyd. Yes, and in many instances much more so now than at termination.

Mr. Meeds. The Wolf River is one of the wild rivers, one of the wild scenic rivers, is it not?

Mr. Deer. Yes, it is.

Mr. Meeds. Do you find anything incompatible with the wild and scenic rivers status of that, and assumption of trust responsibility by the Federal Government of lands in Menominee County?

Mr. Deer. The Wild Rivers Act, in the intentions that I developed in my paper there, does not provide for the maintenance of the benefits condition. The National Park Service had an extensive development plan in mind for it. I think the trust responsibility of the Federal Government would do more to protect it.

Mr. Meeds. It wouldn't inhibit it in any way?

Mr. Deer. No.

Mr. Meeds. Do you find any problems in this bill with maintenance of good ecological practices in the county?

Mr. Deer. Not at all.

Mr. Meeds. Do you know of any enlightened group of ecologists or conservationists who are opposed to this legislation?

Mr. Deer. No, I don't.

Mr. Meeds. On the other hand, do you know some who are for it?

Mr. Deer. The Sierra Club, the John Muir Chapter in Milwaukee supports it.

Mr. Meeds. Thank you very much, gentlemen.

The gentleman from New Mexico.

Mr. Lujan. Thank you very much, Mr. Chairman.

Mr. Boyd, I've been looking at that exhibit A which you included in the record, and also at a chart which we had for purposes of briefing. Beginning on 1962 through 1971, the production of the forestry mill's operation, and it shows for example that beginning in

1962 you had net sales, lumber and forest products, of $2,300,000, and then it starts gradually moving up to 1966 where you had $4 million, and then it levels off somewhere a little above the $3 million a year.

But, beginning in 1966, that was your highest year both from a total intake and from a net profit that year was $744,000. After that it begins to decline over and above the bond interest.

Mr. BOYD. That's net operating profit, if I can interject that, for the forestry mill.

Mr. LUJAN. The total sales are in an area of $3,200,000; $3,300,000. Is it because the equipment can't handle it?

It goes from $373,000 to $363,000 to $306,000 and $235,000 to 1971 where it was only $122,000. Why does that happen?

Mr. BOYD. There have been production and breakdown problems of, I think to some extent, demoralized work force, and I am not faulting the work force and I hope they don't look at it in that sense.

I think really what has happened here is that the efficiency—the workers were not working together with the management. Management wasn't working together with the workers to get the production out as efficiently as it should have been. And I think there is a real indication here of exhibit A and exhibit B, I think bears this out well, that more attention was paid to the Legend Lake project, the land sales program in these years and I think this caused a deterioration of the operations in the mill.

The mill operation, which is the bread and butter of the Menominee, suffered. This is the future of the Menominee.

Mr. LUJAN. For the period ending September 30, 1966 there was only $1,100 profit in the whole operation?

Mr. BOYD. This is a gross profit. Under our system of accounting, this is September 30, 1969 and in our system of accounting we charge our sawmill operations for the cost of logs so that we can compare on an equal basis with industry.

So, this gross profit bears the cost of logs. Reflected in the cost of sales here is a charge for log costs. Down below this, the gross profit line on the profit and loss statement, the log charge is credited back. There are substantial other income items that are added back to the dollar figures.

Mr. LUJAN. What I was getting at was that for a period of time it went down. Do you think that those problems have been straightened out, apparently, because those have been beginning to go up again?

Mr. BOYD. The past fiscal year has been encouraging. One thing for sure is, we do have tremendous lumber markets, but this is not the only thing.

I think [illegible] has been a change in attitude. I think we can sense it to a [illegible] degree. There is more of a working relationship between the [illegible] of directors and management, and the employees.

Mr. [illegible]. Have you had a change in management?

Mr. BOYD. Yes, sir. There has been a change of management.

Mr. LUJAN. Before termination, did all of these funds go into tribal programs, the profits anyway, or what used to happen to the profits from the business enterprise?

Mr. BOYD. I really can't answer that. I was quite young at that time.

Mr. LUJAN. I imagine that's what ran the school, ran the hospital, the law and order program?

Mr. BOYD. I would guess that's a correct statement, yes.

Mr. LUJAN. So if you didn't, of course, have those expenses of property taxes and bond interest expense and that sort of thing, then we could logically assume that those monies would go for various social programs on the reservation?

Mr. BOYD. That is probably a logical assumption, yes, or in the expansion of Menominee Enterprises itself which will result in the creation of additional jobs.

Mr. LUJAN. Thank you.

Mr. MEEDS. Thank you, gentlemen.

We appreciated your testimony.

The next group will be a group of public officials. Mr. Miller, Mr. Waukaw, Mr. Gruber and Mr. Hendricks.

STATEMENTS OF BEN MILLER, HILARY WAUKAW, ARNOLD GRUBER AND ROBERT HENDRICKS

Mr. MEEDS. Mr. Miller is the chairman of the Menominee County Board. Mr. Waukaw is the administrator of the Menominee County Board. Mr. Gruber is from the joint school district number 8. Mr. Hendricks is the chairman of the Shawano County Board.

Mr. Hendricks, I guess, is not here.

Gentlemen, do you all have prepared statements?

Who is going to lead off?

Mr. Miller.

Mr. MILLER. That is correct.

Mr. MEEDS. I see you all have long statements. Would it be possible for you to at this late time in the afternoon to testify, to summarize your statement?

Mr. MILLER. Yes, I will, Mr. Chairman.

Mr. MEEDS. Thank you, sir.

Mr. MILLER. Mr. Chairman and members of the subcommittee, fellow Menominees and friends, as chairman of the Menominee County Board of Supervisors and the Town Board of the Town of Menominee, I will attempt to justify the reality and enactment of the Restoration Act and also to reveal the impact the termination has had upon the Menominee Indian Tribe.

This can be better exposed as it reflects upon the town and county units of governments, especially in the areas of health, education, and welfare.

Let us first examine health; prior to termination the Menominee Indian Tribe enjoyed a hospital in the village of Keshena and a medical clinic in the village of Neopit. Both were staffed with doctor and nurses, and even provided employment for the local Indians.

Today this has changed. The Menominee people were being deprived of immediate and local medical care. Indians in remote areas without transportation or any means of communication had to depend on good fortune in their times of illness and pain.

Last year by virtue of bill S. 4106 the Menominee County Board of Supervisors entered into an agreement with a Federal agency, the National Health Services Corp., to provide a doctor and a medical center to fill a large gap in medical care which existed ever since termination. The fact of the matter remains that the success and solvency of the so-called memorandum of agreement is based on revenues of third party collections, such as Blue Shield, Blue Cross, health and medical insurances, because of a shared cost stipulation. The Menominee County Government has levied approximately $8,000 in appropriations and resolutions and can verify an in-kind contribution in excess of $50,000.

My sincere appraisal of the memorandum of agreement with the Federal Government is that the Menominee Indian is not getting something for nothing, but at the very least it is something that the Menominee County Board long realized and was overdue for the Menominee Indians.

The subject of education in Menominee County is worthy of mention as it reflects on the tax levy by local municipalities. Our participation in the area of education is one of great importance for the benefit and livelihood of the Menominee Indian, for education offers the best and only opportunity for the success of the individual.

The education of the Menominee Indian should be our first priority. Our last assessment for the Town of Menominee by Joint School District Number 8 was in excess of $574,000; as a result the Town of Menominee contributes in excess of 21 percent toward the operation of the school district.

I have predicted that if the trend of our increases in equalized valuation holds true, and provided the mill rate increases in proportion, or even remains constant, the Town of Menominee in the near future will be assessed $750,000 for educating the people of Menominee County.

Considering the fact that Vocational School District Number 15 has assessed Menominee County for $33,446, education alone constitutes an estimated 61 percent of our total tax rate. This not only reveals the importance of education to the Menominee Indians, but it also reveals the tax burden it has placed on the people residing as taxpayers in Menominee County, and the Menominee Indians themselves.

WELFARE AND SOCIAL SERVICES

In order to properly analyze and ascertain the existing poverty level of the Indians of Menominee County, one must realize the impact of termination on expenditures budgeted for categorical aids in the Menominee County Department of Social Services, because Menominee County has been recognized and declared as a distressed county since termination.

We are one of only three counties in the State of Wisconsin that qualify for a 80 to 20 percent categorical aids mathematic formula in determining the county's share of expenditures levied against the taxpayers. This formula is applicable against our total categorical aids budget as follows:

Old age assistance, $48,000; aid to the blind, $7,200; aid to the disabled, $38,000; aid to families with dependent children, $488,000;

medical assistance, $309,400; subtotal on categorical aids is $890,600.

Welfare administration is $361,000. Incidentally, the county's share on that is 6.5 percent. The total is $1,251,600.

These figures constitute the total amount of funds needed for categorical aids and administration. It does indeed project a grim picture, considering the total amount of recipients receiving aids in Menominee County is approximately 600 individuals, which is 23 percent of our total population.

I have submitted the adopted county and town budgets for the record, the tax rates, and restoration. Considerable concern has been expressed as to how restoration would reflect on non-Menominees. Let's take the present town and county of Menominee.

In addition to the exorbitant expenditures in categorical aids, the town of Menominee levies a tax in the amount of $46,164 in general relief for indigent or needy Indians. At one time my concern for increasing expenditures in welfare aids in the Menominee County budgets came to a point that I took procedures provided by Wisconsin statutes for distressed counties, to apply for additional revenues and aids to contain the rising costs of welfare.

A State agency made an investigation of the financial status of Menominee County. As a result of that inquiry, Menominee County was denied additional financial assistance as a distressed county because our tax delinquencies were at that time in excess of $55,000. Yes!

As chairman of the county and town boards I have the most unpleasant duty of taking legal procedures against tax delinquencies and wrench the last parcel of land from the Indian who once roamed and owned the eastern portion of the State of Wisconsin. It is with extreme reluctance that I have to by law take these procedures against my own people.

TAX RATES AFTER RESTORATION

Considerable concern has been expressed of how the Restoration Act would reflect upon the non-Menominees as taxpayers in the town and county of Menominee. I maintain that the land held by Menominee Enterprises Inc. and the individual Menominees would be held in trust by the Federal Government, which means the total amount of equalized valuation of $35,689,400 would decrease by $20,115,290 or 57 percent.

This would result in a remaining valuation of $15,574,000 or 43 percent, subject to taxation, but because of the fact the enactment of the Restoration Act would entitle the Menominee Indian Tribe to substantial revenues in the fields of health, education, welfare, sanitation and roads, it would be unfair to levy these categories against the non-Menominees as taxpayers.

Presently the tax levies for these categories are as follows:

Health, $23,000; education $609,000; welfare (county share) $110,000; sanitation, $100,000; county roads, $71,000; town roads, $60,000; town relief, $46,000; a total of $1,019,000.

With the anticipation of Federal revenues of this magnitude it is quite obvious to me that the remaining valuation of $15,574,000 for non-Menominees would realize a substantial decrease in tax rates.

Several non-Menominee land owners have expressed concern of the increase in tax rates after restoration, and that the county officials would deliberately increase budgetary expenditures that would eventually increase tax rates. This is totally unfounded!

The inclination of intentional increasing tax rates upon non-Menominee taxpayers is provided with safeguards against unfair taxation by Wisconsin statute, chapter 70, section 62, subsection 20, paragraph (a) which reads as follows:

> In counties containing one town only, the total amount of county taxes assessed, levied and carried out against taxable property of such county in any 1 year shall not exceed in the whole, 1½ percent of the total valuation of said county for the current year as fixed by the Department of Revenue.

Recently I have been in communication with the Native American Rights Fund in regard to the Restoration Act. At this time I take this opportunity to present as testimony a Memorandum containing the subject of unreasonable taxation of taxpayers after restoration, of which I wholeheartedly agree.

The Menominee County Board of Supervisors have since the inception of the county placed great emphasis in containing expenditures for the sole purpose of decreasing tax rates. We do this not only to accommodate the Menominee people, but because we have the integrity and responsibility as public officials to treat all taxpayers equally and without discrimination, regardless of nationality.

Mr. MEEDS. That memorandum regarding taxation of taxpayers after restoration has already been entered in the record by Mr. Wilkinson.

Mr. MILLER. I have endeavored to present testimony on H.R. 7421 to the best of my ability. It prompts me to recall the transition period when the Menominee Indians were terminated from the supervision of the Federal Government.

It was the time the Menominee Indian first heard the word, taxation, and could hardly pronounce it, much less understand the definition of it. It was the beginning of a period that has spelled hardship, turmoil and anguish.

This is why I say the Termination Act has created so many injustices upon the American Indians, that it is now bothering the national conscience. America should not rectify these inequities and develop a fair national policy governing future treatment of Indians, for it is only by this policy the treatment of Indians shall not be declared as another national disgrace.

In conclusion, I sincerely endorse any form of legislation that would reverse this monstrosity commonly known as the Termination Act. This is why I attempted to show where we have been in the past and what to expect in the future, for I am aware of the role the county and town governments must play to implement the reality of the Restoration Act. I conclude with the hope for success in this great venture.

That concludes my testimony, Mr. Chairman.

Mr. MEEDS. Thank you very much, Mr. Miller.

If the other gentlemen will proceed, then we will ask all the questions at one time.

Mr. Waukaw.

Mr. WAUKAW. Mr. Chairman, members of the committee. My name is Hilary Waukaw, Sr. I am a member of the Menominee Tribe.

First of all I would like to address my comments to the Chair and also to my Menominee people.

Mr. Chairman, I am appearing here today in my role as Administrator of Menominee County. I am in favor of the concept of restoration of the Menominee people to their status as Indians and placing the assets under Federal trust status.

There are a couple of basic points I would like to speak on. One that I can see as administrator is the continuance of services for the Menominee People at the level that they now have. The main ones are welfare, health, education, and law and order.

I believe that some basic local governmental entity should be maintained to administer these various programs on a local level, with a concerned and determined local input.

These programs are now administered on a county and town level, with local participation and input. It would be a sad day for the Menominee people if they were made to obtain these services from entities or areas that would not consider them with the heartfelt consideration, or be receptive to local input, on basic needs.

I refer also in particular to page 8, lines 3, 4, 5, 6 and 7 of the bill in which a continuation of services is mentioned. The other basic point is that it is imperative that there ought to be an iron clad guarantee that provisions be made for a continuation of these governmental services. I have a fear that unless some provision is made that the Menominee people will be left without such services and the Menominee people have suffered long enough and too much to have to go through this.

What I am referring to is that the Menominee People not be left in a no-man's land for any period of time, where they are not Federal or they are not State, in regard to the providing of essential services.

And it is of basic importance that the passage of the Act and the appreciation of funds be at the same time, so that the Menominee people can have the peace of mind that services will be provided and not interrupted.

Mr. MEEDS. Thank you very much, Mr. Waukaw.

Mr. Gruber, please. Superintendent Gruber, please proceed, sir.

Mr. GRUBER. Mr. Chairman, committee members.

The Joint School District No. 8 maintains a neutral position with regard to Menominee County restoration considerations under proposed legislation. The district is well aware of and supports the Menominee quest for self determination in government as well as in education. The dominant policy of Federal Government has been towards assimilation. It is apparent that many of our local educational problems do stem from the policy towards assimilation and its appears that it is against these efforts that the Menominees find objection.

Although we may support everyone's quest for self determination in education we have no sound legal theory to support the right of Indians to control their children's education—such a theory, we feel, is needed if the district is to comply with stated Menominee demands.

Joint District No. 8 has been cited by the Civil Rights Division of Health, Education and Welfare. We do not feel that this citation identifies the District as unique in its practices as compared to other school districts within the State and Nation. The compliance report recognizes that efforts over and above normal traditional efforts have been made in the education of Menominees but the charge is to provide additional efforts in amount and quality until such time that Menominee children perform academically at the same level as determined by group standardized tests, as their non-Indian classmates.

The school district does not feel that the concerns expressed and the problems identified should be considered as strictly local problems. Their source and causes are much deeper and much more expansive. Yet the district has been relatively isolated from State and Federal assistance in possible solutions.

The district almost solely continues to cope with the problem which has created fiscal concerns that should not and cannot be borne solely on a local level. The district within its ability and financial potential continues to provide quality traditional education and meets Menominee and Health, Education, and Welfare Department complaints and demands within reason and to the extent of its financial and professional abilities. It is evident that there exists among a significant number of Menominees a desire and a feeling of need for a separate Menominee controlled school district. It is not difficult to support a peoples desire for self-determination—for a right and opportunity to try—for the opportunity to succeed. We honor these desires within the constraints of our present laws.

Then I have given some statistics which are on file. One thing, I think, of importance is that Menominee County provides 21.7 percent of the enrollment as of May 4, 1973 and provides 22.87 percent of the taxes in our district.

The tax levy was based on Menominee County equalized value of $32,013,800. The comparable total district equalized valuation was $139,943,200.

The 1972 Menominee County equalized value will increase to $35,689,400. The total district equalized value will increase to $153,261,203. If my computation is correct here—I did it manually —the percent of taxes that Menominee County will pay to the school district will increase to 23.21 percent.

We hope that the committee—although we do want to say that we take a neutral stand on the legislation—we do understand their expressed desire for separate educational system as they have in Wyoming, but there are some concerns that we hope the committee will pay close attention to.

We hope that the committee, in considering the restoration, will give thought to the following concerns:

One. What effect would restoration have upon Menominee membership in joint school district No. 8.

Two. Will restoration provide for self-determination of the education of Menominees.

Three. If the educational structure is to remain as it is what financial assistance will be provided to accomplish specific educational needs and the desires of the Menominees.

Now, this means in addition to the traditional type of education that the white culture is accustomed to.

Four. During this period of membership in joint district No. 8 a $1,935,000 building-bond referendum was passed. Remaining indebtedness on this bond including principal and interest is $2,187,768.44—who will assume the Menominee County share?

That is my testimony. Thank you.

Mr. MEEDS. Thank you, Mr. Gruber.

I will start my questions with you, sir, Mr. Gruber.

You say in your question number three, what would be done to provide specific educational needs and desires of the Menominees above and beyond traditional education. I assume you mean special Indian education programs?

Mr. GRUBER. Yes. Special concern towards cultural sensitivity and Indian needs and expressed desires.

Mr. MEEDS. What kind of programs are you presently providing in this area in district 8?

Mr. GRUBER. With what regard?

Mr. MEEDS. Well, what kinds of special programs for Indian children above and beyond the traditional education programs.

Mr. GRUBER. Okay, we do have, all of our title money goes into Menominee County and that's approximately $118,000 per year.

We have three basic objectives. One, it is an effort toward attitudinal change towards school. Two, health; three, remediation.

In addition we did have a title 3 program on individualizing instruction. All of this money was dedicated to education in Menominee County where we did try to develop and did develop some package showing cultural sensitivity and individualized instruction of Menominees.

Mr. MEEDS. Do you have Menominee cultural classes in district 8?

Mr. GRUBER. We are trying to develop them at the present time.

Mr. MEEDS. But you don't have them yet?

Mr. GRUBER. Yes, we do have some of them, but we are refunding them and we are expanding our courses.

Mr. MEEDS. Would you tell me about them?

Mr. GRUBER. Well, take for instance the self-awareness unit. We start with the primary grades, trying to get the children to understand just who they are and then we want them to understand who they are in relation to other people, other kinds of people.

We study comparative people. We study Menominee County government. We have Mr. Miller come in to explain government. We study Shawano County government.

We have been weak——

Mr. MEEDS. Do you have any classes teaching the history of the great men in Menominee history? Men and women?

Mr. GRUBER. We have some as a part of our total social studies course but not as a separate course. And here again, this is where the effort and the money comes in. It's not easy to find this kind of material.

If it is available, and much of it is not available, much of it has to be developed on a local level and it takes expertise which our local system does not employ.

Mr. MEEDS. What percentage of your total title I entitlement comes because of the attendance of Menominee County children in district 8?

Mr. GRUBER. I think it is 62 percent, 55 percent on the basis of the Menominee children.

Mr. MEEDS. You are spending all of your title I?

Mr. GRUBER. It had been all, but one-half of the directors salary and we have picked that up so that all of it goes into Menominee County.

Mr. MEEDS. So all of your title I funds are going into Menominee County?

Mr. GRUBER. Yes.

Mr. MEEDS. How long has that been?

Mr. GRUBER. Since we had title I.

I have to modify that. We did have one program in science on the high school level which was basically accommodating Menominee students, but there were some other students involved.

Mr. MEEDS. Do you have any children in district 8 who are impact aid children?

Mr. GRUBER. No.

Mr. MEEDS. Do you know what the comparable districts surrounding you are receiving for aid children under impact aid?

Mr. GRUBER. Not an amount, but I know that it is very helpful item.

Mr. MEEDS. Would it be in excess of $400 a year probably?

Mr. GRUBER. I'm not aware.

Mr. MEEDS. How many children in the district 8 school system are from Menominee County?

Mr. GRUBER. As of May 4, 790.

Mr. MEEDS. And that's 21 percent of your school population in district 8?

Mr. GRUBER. Yes.

In addition to that we have, I think—I don't have the numbers here, but we have about 50 Menominee children living in Shawano County. We also have a large number of Stockbridge-Munsee Indians in our district and they're not counted in this number. This is just Menominee.

Mr. MEEDS. You do operate one school in Menominee County?

Mr. GRUBER. We operate two schools.

Mr. MEEDS. These are grade schools?

Mr. GRUBER. They are preschool through grade 5. Then they enter into a middle school in Shawano embodying grades 6, 7, and 8.

Mr. MEEDS. For the most distant child in Menominee County attending grade 6 in Menominee County, how long a bus ride is that?

Mr. GRUBER. As far as time is concerned?

Mr. MEEDS. Yes.

Mr. GRUBER. About an hour and ten minutes, is the longest.

Mr. MEEDS. One way or two way?

Mr. GRUBER. One way. And we have non-Menominees that ride a comparable distance. Our district is 575 square miles in area, 27 miles north and south and 25 east and west.

Mr. MEEDS. Now, what problems did you have under the Civil Rights Act of 1964 which caused you to receive the title 4 citation?

Mr. GRUBER. Do you want me to list the five?

Mr. MEEDS. Were there five?

Mr. GRUBER. There were five citations.

Mr. MEEDS. Well, give me some general idea.

Mr. GRUBER. Number one was labeled unequal education and I asked for an explanation of that. Unequal education to them, they acknowledged that more than the traditional has been offered but they based the unequal charge on the fact that Menominee children did not perform at a comparable level to the non-Menominee child. And our challenge is to do whatever we have to do until such time that the Menominee child will perform at the same level as the non-Menominee child.

Also, they found that in our sectioning, we had been sectioning students according to their strengths and weaknesses in their academic class.

Mr. MEEDS. We call that tract system.

Mr. GRUBER. Tract system or homogeneous grouping. HEW said that whenever you use a system that results in a disproportionate number of Indians being in a particular class, this is discrimination. Consequently, they challenged us to remove the homogeneous grouping and go to heterogeneous grouping which is, just mix them. That was number two.

Number three, in special education we used the guidelines, state guidelines for placing students into special education classes. One of the criteria or standards was the standardized group tests. Again, HEW states that if a metric is used which results in a disproportionate number of Menominees in a given section, this is discrimination. Consequently we are to use some other method which we have already devised and a more personalized evaluation other than standardized testing and the methods that had been as state guidelines.

This is why I say, it doesn't make us unique. We are doing what others have done, but we have other problems. Another one is counseling services in the staffing. We have not been able to hire Indian staff members. We have had them at times; we have lost them and we just haven't been able to do it. This year we are going into the Indian teacher corps program in an effort to help develop——

Mr. MEEDS. Have you ever before done any kind of recruitment programs to get Indians?

Mr. GRUBER. We have a vast recruitment program in our district where we circularized 104 placement offices and institutions. We get in contact with the various bureaus, Indian bureaus and so on to see if we can't get them, but they are not available.

We also feel that because of the distance, Menominees are deprived of an opportunity, equal opportunity, to participate in extra curricular activities and that the district must do something to make this more available to Menominees that have distances and live distances from the school. This, of course, also would apply to other rural people within other corners of our district.

That, basically, is the five compliance charges that have been made and that I have circularized within the community.

Mr. Meeds. And you don't think that's fairly unique? You identify the district and say, we do not feel that this situation identifies the district as unique in its practice in comparison to other districts in the state and the nation?

Mr. Gruber. No, not as a practice.

We are unique because we are the only district within the State of Wisconsin that went through a Health, Education and Welfare evaluation, and we were exposed to that, we are told, because we have a student population of over 500, under 60,000, and a large number of minority people.

Mr. Meeds. You have about 25 percent of your student body Indian children, right?

Mr. Gruber. Right. But what I made reference to was that our practices were not unique.

Mr. Meeds. You say you have no sound legal theory to support the right of Indians to control their children's education?

Mr. Gruber. Such a theory, we feel, is needed if the district is to comply with the stated Menominee demands.

Mr. Meeds. Are you aware of the Indian Education Act of 1972?

Mr. Gruber. Well, perhaps not completely.

Mr. Meeds. Well, maybe you'd better get aware of it, because there is such a theory, and I think it's pretty sound legal theory too.

Mr. Gruber. Well, we're making application under the bill.

Mr. Meeds. I'm glad to hear that.

Mr. Gruber. The only thing is, we heard it about a week ago, I think, and the deadline for application is June 5.

Mr. Meeds. Well, you might check with the Office of Education on that. Some of us have been talking about that deadline for 18 months now.

We have had a little trouble with the Office of Education on it.

Mr. Gruber. Well, we'll have a good deal more trouble than you've had.

Mr. Meeds. Do you think there's any sound legal theory to support the right of anybody to control their children's education?

Mr. Gruber. I think so.

Mr. Meeds. Why shouldn't there be some sound legal theory for Indians too?

Mr. Gruber. I say there should be.

Mr. Meeds. But you don't think there is now?

Mr. Gruber. I don't think the Indians feel that there is, and I don't think that I feel that there is—that they could have their own school system if that's what they desire.

Mr. Meeds. Well, if we had a reservation in this area composed of this county, and the Menominees controlled the school board and their whole education system, that would meet then with your feeling that everyone should have a right to control their own?

Mr. Gruber. I feel that everyone should have a right to control the education of their children.

Mr. Meeds. Very good.

Mr. Miller, could I go into this budget with you a little bit?

I hate to take so long, but I'm getting an education here and it's probably pretty essential that I get educated.

I see on page—I guess these pages aren't numbered—but on the county budget, I don't see anything substantial with reference to Indian education here. Why is that?

You have $30,000. I assume that's mostly recreation.

Mr. MILLER. Well, the biggest portion that I mentioned there in excess of the $574,000 has been levied to the town and we don't show it in our town budget.

Mr. MEEDS. Levied in your town?

The town is next to it and I don't see it there either.

Mr. MILLER. No, it isn't.

We don't show it in either budget, but it affects the tax rate. We levied it.

Mr. MEEDS. It comes out as a separate levy, then, to district 8?

Mr. MILLER. That's right. The only one that you'll find in there as far as education is the assessment on vocational schools and that is under county.

Mr. MEEDS. So, if we go then to Mr. Gruber's testimony, you picked up $574,647.41 as the amount that's levied?

Mr. MILLER. I used whole figures there, Mr. Chairman.

Mr. MEEDS. Is that entire amount levied in this county?

Mr. MILLER. That is correct.

Mr. MEEDS. So this doesn't, then, contain that amount which is 21 percent of your budget?

Mr. Gruber, it does not contain your entitlement which you received for Menominee children who are attending and receiving aid under title I?

Mr. GRUBER. No.

Mr. MEEDS. And that is how much?

Mr. GRUBER. Title I, I believe, is $118,000. I don't have the figure here.

Mr. MEEDS. About $118,000 because of Menominee children?

Mr. GRUBER. No. The total amount is coming in here. Now, 55 percent of that.

Mr. MEEDS. So we've got another, say, $60,000.

Now, do you get any other funds, Mr. Gruber, because of Menominee children attending district 8?

Mr. GRUBER. No. That's all.

Well, you get your general State aids.

Mr. MEEDS. How much?

Mr. GRUBER. But not because of Menominee County students.

Mr. MEEDS. Any students?

Mr. GRUBER. Yes.

Mr. MEEDS. But in trying to determine the relative responsibility here for the Menominees, if they are paying their own way in your school system in district 8, can you tell me about how much would that State aid be because of the number of kids in Menominee County?

Mr. GRUBER. It would have to be 21 percent because it's based on school population.

Mr. MEEDS. So in addition to the $574,000, the $60,000, you get another 21 percent contribution because of the attendance of Menominee children?

Mr. GRUBER. Yes.

Mr. Meeds. Well, it appears that district 8, which contains only 23 percent of Menominee children, gets almost half of its total budget because of these children.

Mr. Gruber. No.

Mr. Thompson. What you have as far as the tax base is 21 percent of the total tax levied in district 8 on property taxes comes from Menominee County, I believe, 22 percent.

Mr. Meeds. Right.

That's the $574,000?

Mr. Thompson. That is correct.

Now, you asked how much additional funds accrued to district 8 because of children in Menominee County. If we took the aids that we receive which is estimated at approximately $660.000, 21.8 percent will then logically be contributed of that for those children.

Those would also have to clear with all and any other aids that might develop.

Now, if I understood your question correctly, it has to have two fold—is it because the Menominee County children per se or is it because of Menominee Indians?

Mr. Meeds. Well, there isn't too much difference, is there?

Mr. Thompson. Well, there is in the figures that you are asking for.

Mr. Meeds. How much difference? What percentage of the children coming out of Menominee County attending district 8 are not Indian children?

It's not even 10 percent, is it?

Mr. Thompson. Oh, yes.

Mr. Meeds. What is it?

Mr. Thompson. 78.2 percent.

Mr. Meeds. Out of Menominee County?

Mr. Thompson. No, out of the district.

Mr. Meeds. I'm asking you, out of Menominee County.

Mr. Thompson. A very negligible percent. It's less than 1 percent.

Mr. Meeds. So for all intents and purposes we are talking about all Indian children coming out of Menominee County.

Mr. Thompson. This is correct.

Mr. Meeds. Now, maybe I'm wrong here, your total budget, what you received from the State, is it $2,511,987?

Mr. Thompson. That is—the budget for the district was some $3.200,000.

Mr. Meeds. Well, that's where our problem is.

Mr. Thompson. The 21 percent represents the tax levied for the entire district $211,000, $2 million.

Mr. Meeds. So your school budget, then, we would add in the state contribution to that?

Well, that's the problem we have.

In any event, could I have your name, sir?

Mr. Thompson. John Thompson.

Mr. Meeds. And you are——

Mr. Thompson. Assistant superintendent.

Mr. Meeds. In any event, the Menominee money coming into district 8 because of the attendance of Menominee children is in excess of 25 percent of your budget, of your total budget?

Mr. **Thompson.** No. If you took the tax base that you have, it's 22.8 percent. If it were possible, then, to break out all other aids and separate them because of children, we have 21 percent of children from Menominee county.

We can attribute then all other aids as 21 percent. If I have to give a flat figure, I would say of all the budgeted amounts that the district has for operation capital outlay, and debt service retirement, approximately 22 percent can be attributed to Menominee County.

Mr. **Meeds.** About the same ratio as the children attending?

Mr. **Thompson.** Somewhat higher than that by one-half percent.

Mr. **Meeds.** Well, that then also is not just operational expense. That's also debt service on building?

Mr. **Thompson.** That's correct. And capital outlay. We do not receive State aid on debt service or capital outlay with the exception of one area of capital outlay in which we are allowed to pull 40 percent out for operational expenses of the school district according to the State formula.

Mr. **Meeds.** Just by rule of thumb, you would probably be entitled in district 8 to an additional $400,000 in Federal funds from Public Law 874 if this were a reservation because of the attendance of Menominee children.

Could you do good with that?

Mr. **Gruber.** $400,000 worth.

Mr. **Lujan.** If the gentleman would yield.

They'd better not start spending that because they lose their tax base.

Mr. **Thompson.** That's right. You're talking about reducing that by whatever taxes would be levied against that portion of real estate that is removed from district 8.

Mr. **Meeds.** Now, as I understand the total thrust of your testimony, Mr. Miller, it is that you believe that if restoration as in this legislation were passed, taxes would go down for the local citizens in Menominee County?

Mr. **Miller.** That is my honest opinion. I'm talking about the remaining valuation which I quoted as $15 million, in excess of $15 million, yes, that is correct.

Mr. **Meeds.** Fine.

Thank you, gentlemen.

The gentleman from New Mexico.

Mr. **Lujan.** Thank you, Mr. Chairman. I won't take very long.

Just a couple of points I want to clear up.

Mr. Waukaw, you mentioned in your testimony that it is imperative that there be an iron-clad guarantee that provisions be made for the continuation of governmental services, and you referred to page 8, lines 3, 4, 5, 6 and 7 of the bill, that being section 6(e).

I thought that's what it did, since it says the secretary of the Menominee Restoration Committee shall consult with the appropriate State and local Government officials to assure that the provisions of the necessary governmental services is not impaired as a result of the transfer of assets provided in this section.

Do you think that wording should be changed?

Mr. **Waukaw.** No, I don't think it should be changed, but what's written in the bill now isn't what comes out in your final result, that would be my concern.

Mr. **Lujan**. In other words, you want that section 6(e) left intact, to be sure it doesn't get lost in the shuffle.

Mr. **Waukaw**. Yes. You can put anything in the bill, but what comes down as the final result is my concern.

Mr. **Lujan**. On the question of taxation, I've been doing some playing around with some figures here.

The present tax levies for the various categories, you assigned a figure to them. I am assuming that Menominee County, then what would become the Menominee Reservation, if it is restored, that all of the health needs will be met the same as we do for all Indian citizens, so that that item of $23,000 would be eliminated for figuring as far as your tax levy is concerned, so with the $609,000, depending on what system we go to for education, it could be a BIA school or whatever.

Mr. **Miller**. Yes. I added $574,000 against $33,000 to come up with $600,000.

Mr. **Lujan**. And then county roads would then be reservation roads, and you would eliminate that $71,000 item.

Mr. **Miller**. Yes.

Mr. **Lujan**. And so, totalling quickly, just those three items, that's $703,000 out of the total tax levies of $1 million so that the county expenditures would drop 70 percent.

You would only have to raise, well, much less than $300,000 on the remaining property so that in effect, I think that the tax rate for private lands would go down.

Mr. **Miller**. That is why I based my opinion in there on the influx of Federal monies, especially in the fields of health, education, and welfare. And like you said, roads, which is $71,000 for the county and $60,000 in the towns.

That is the reason why I formed that opinion there, that the tax rate would obviously decrease.

Mr. **Lujan**. All right, very quickly then, do you know how much came in Federal funds into the town and county during 1972 under maybe HUD programs or housing, water, and sewer—excluding schools because that is the next question?

Mr. **Miller**. We don't show any housing in our county budgets. We are completely divorced from that, although we sponsored that. The most significant form of Federal subsidies there is in our social services on, like I said, the 80–20 mathematical formula on how they figure out our categorical aids.

Mr. **Lujan**. Was there in 1972 a housing grant of any kind?

Mr. **Waukaw**. Could I answer that, sir?

Mr. **Lujan**. Yes.

Mr. **Waukaw**. Yes, there was a housing grant. It was based on the normal HUD procedures; we have established the Menominee County Housing Authority.

The first phase of the housing project Wisconsin 27–1 for 50 units have been completed with 100 percent occupancy. That was $800,000.

The second phase, Wisconsin 27–2 project, was about $1,750,000 for 66 units of housing, which is at the present time about 75 percent completed and occupied.

Mr. **Lujan**. Are those turnkey projects?

Mr. **Waukaw.** Turnkey with the Menominee Tribe as the housing authority, and also the developer with Menominee Enterprises, Inc.

Mr. **Lujan.** How about sewer grants?

Mr. **Waukaw.** We do have a special account that was granted from previous expenditures of approximately $170,000 that is earmarked for continuing sewer and water projects that has to be expended according to the Public Health Service, Indian Branch rules and regulations.

Mr. **Miller.** I might add, I forgot when you talked about Federal subsidies, there is the Federal revenue-sharing, is what I should have said.

Mr. **Waukaw.** You want an insight on Federal revenue-sharing? I can give you that in a moment.

Mr. **Lujan.** That was $67,000, wasn't it?

Mr. **Waukaw.** No, we had the Federal revenue-sharing in 1972 of $73,725. In 1973 the first entitlement was $21,347.

Mr. **Lujan.** So you end up with about $43,000?

Mr. **Waukaw.** No, we'll be totalling $86,000 for this year.

Mr. **Lujan.** How much was—how about the schools? How much came in under title I in Federal funds?

Mr. **Gruber.** Are you speaking of hot lunch support and things of this sort?

Mr. **Lujan.** Yes.

Mr. **Gruber.** About a quarter of a million dollars.

Mr. **Lujan.** In spite of the fact that it would be a reservation, it would not be affected at all?

Mr. **Gruber.** No; it's based on the number of meals served and so on.

Mr. **Lujan.** How about title I, the fact that the reservation is not affected?

Mr. **Gruber.** Yes.

Mr. **Lujan.** You don't get that?

Mr. **Gruber.** No; it's based on the number of needy children. We would lose the Menominee portion of it.

Mr. **Meeds.** If the gentleman would yield at that point, I think there is a double count on Indians, if they are on reservations. Do you mean now?

Mr. **Lujan.** My questioning was directed towards, how is the school system going to be better off to get 874 funds of about $400,000, and you end up losing in other areas?

Are you going to be a plus or a minus as far as the Federal Government is concerned? I realize that you're going to lose that base property. You're not going to lose all of the $574,000 because you'll be getting some of that?

Mr. **Gruber.** We think that if district 8 remains as it is, and if some provisions were made for the balance of the bond indebtedness, that would not be taken care of by taxes.

I think generally the school district would be better for it, wouldn't you say so, John?

Mr. **Thompson.** Yes. I'm not certain as to the effects of restoration on title I. Title I is based on need, and two of the areas that are counted are aid to dependent children and low-income families.

Now, whether the definition of these two would be changed because of restoration I have no idea. If they are, they could substantially affect that portion of aid that we receive from the Federal Government under title I.

Mr. **Lujan.** Now, would you not like to take, not a neutral position on the restoration? [General laughter.]

I have no further questions.

Mr. **Meeds.** Just one further observation.

In addition to the approximately $400,000 which would come as an entitlement under 874, a district serving that many Menominee children, reservation children, would receive an additional $400,000 under Johnson-O'Malley and some additional money under the Indian Education Act, and you would also still have some assessed valuation in the county of probably a couple of hundred thousand dollars worth of income.

Mr. **Lujan.** Don't you get over and above that under 874 funds for a county that is around a 25-percent figure?

Mr. **Meeds.** No; that would simply put them into the category which they refer to as super-A's, in which every budget of which I am aware has been funded at 100 percent.

Mr. **Gruber.** The Menominees have expressed another concern presently that they're not classified as Indians as far as Federal scholarships and so on, and education are concerned, and it would not help the district particularly but it would help the Menominees specifically to be under the Federal status.

Mr. **Meeds.** Presently they're not entitled to scholarships under BIA?

Mr. **Gruber.** They are under State but not under Federal.

Mr. **Meeds.** Well, we thank you gentlemen very much for your very enlightening testimony. We had been waiting for you.

Our next witness is Mr. George Kenote.

STATEMENT OF GEORGE KENOTE

Mr. **Meeds.** We are very happy to have you before the committee, Mr. Kenote. The counsel tells me we're supposed to be out of here at 5:30, but I know that you've long been interested in this problem, so please feel free to take whatever time you think is necessary to get your view expressed.

Mr. **Kenote.** Thank you, Mr. Chairman and Congressman Lujan.

I have not prepared any statement but I do have some notes, some observations I would like to make.

No. 1, let me state very plainly at the beginning, I am very much in favor of restoration, or modification, if you want to use the term. Mr. Boyd, and Mr. Miller have very explicitly explained the economic condition of both our enterprise and our county, and I would certainly agree with that. And we do need some restoration of Federal aid available to support, to offset the burden on those two entities and to aid the people individually.

With that in mind, I think there are some things that the committee ought to pay some very special attention to. I would estimate that since closure of the rolls of the Menominee Indians through deaths and new births and through inheritance and redistribution of original stocks we probably have certificate holders somewhere who are entitled at least somewhere between, in the neighborhood of 4,500 to 4,800 people.

That's a very rough, roundhouse estimate. And when we began with 3,270 in 1961, but through the course of these events that figure has changed.

Probably about one-half of those people, men, women and children are not residing in Menominee County. They are scattered all over the United States and some all over the world. I have considerable correspondence with some of those people.

I know that section 6 brings some concern, and I'm totally aware of and have read Mr. Wilkinson's opinion or memorandum on the vested interests, but section 6 said that subject to laws of the State of Wisconsin the secretary of the board of directors of Menominee Enterprises could transfer the assets to the Secretary of Interior, and I suppose then to an administration or whatever tribal entity would be established. But I would submit, I only have one copy of it, I would submit for the committee's reference, if not for a record, a letter directed to me by a legal counsel wherein he determines that if H.R. 7421 as now drafted were enacted that the corporation would be subject to the provisions of chapter 180 of Wisconsin's statute, and that such transfer as is contemplated in section 6 of the assets of Menominee Enterprises, such chapter would have to remain under sections 180.71, probably 180.72.

Now, this sets up a pretty precise procedure for those people who want to determine their stock interest and demand payout. Now, this is something that initially we tried to avoid when we first set up the Menominee so-called termination plan, making it difficult for any group or individual group of Menominee Indians to vest these interests into some other ownership.

I would like to have particular attention paid to that, and of course the tribal will will prevail. I would just file this with the committee.

Mr. MEEDS. We appreciate that, Mr. Kenote.

This committee is aware of the nature of the relationship of State, Federal, and local governmental relations and we intend to be very careful in that entire field, working it out so that there are no conflicts. We would certainly appreciate your help and counsel in helping us with that. I'm very happy to hear you say that you are in favor of restoration.

Mr. KENOTE. Some other questions arise.

Supposing Menominee landowners who now hold their land in fee donate their land back to the Menominee Enterprises or to the tribal entity.

We have an impression—what becomes of the improvements, the homesites, the farm sites, the buildings and improvements around that land? Do they then become personal property again, or are they tribal property being real estate now, and if so, are they taxable as personal property?

Does an individual get a tax-exempt situation with respect to his real estate if he just transfers land back? This raises some problems.

Another question, if a certificate holder by descent wants to sell back to the corporation and divest himself of any stock interest, do they then by that action lose their entitlement as Indians as otherwise provided in the initial sections of this proposed act?

Mr. MEEDS. Do they have the right at this time, Mr. Kenote, to sell that back to the corporation?

Mr. KENOTE. After January 1974, if they propose to sell.

Mr. MEEDS. So that is an inchoate right at this time. It's a right they cannot exercise until 1974?

Mr. KENOTE. Right.

Now, with respect to one point that I know is a point of contention today, whether or not the corporation could have authority to sell land somewhere down the line or transfer some interest in land for economic development or some other development; I'm very well aware of the developments across the country, in Indian country, Mescalero, Apache and Arizona, Warm Springs and Washington. I'm pretty much aware what other Indian tribes are doing, Navajos, I've worked with all of them.

That Federal funding has not been sufficient to make a viable community in any of those communities. For instance, the White Mountain Apaches have a very substantial cattle industry, lumber industry very much bigger than ours. They have all the Federal funding available to them and still they have a fairly distressed situation so that they find they have to go out into recreational development for additional employment and tribal income.

Mr. MEEDS. Pardon me just one moment, Mr. Kenote.

Would you suspend for just a moment while this gentleman turns his tape over?

[A brief recess was taken.]

Mr. MEEDS. Very well. Please proceed, sir.

Mr. KENOTE. With that situation in mind, I would hope that the Congress not put impositions or restrictions upon use of land that is so restricted that other tribes have had to go through congressional acts specifically to get some authorization.

Mr. LUJAN. Mr. Chairman, may I answer that rather quickly?

Mr. MEEDS. Please do.

Mr. LUJAN. There are two ways of further development by the tribe: (1) By creating an authority which is just a department of the tribal government and they develop it; or (2) if you want to bring some industry from the outside that would develop it, you cannot sell the land at the moment.

I believe the longest that you can re-lease without congressional approval is 30 years, 35—25 years, but we have had legislation at times where the tribe requests that legislation was passed allowing for leasing for 99 years, and so the development can go on without the necessity of the sale of land.

Mr. KENOTE. I'm aware of that. The only thing I'm saying is that I hope that some middle ground is found where we keep the options open so down the road our people are not tied in so that they cannot go into more economic improvement.

Now, with respect to the provision for some local government in the interim or after the interim, we have right here in the State of Wisconsin—and I know Congressman Meeds in the State of Washington has some situations where on the base of local governments townships and taxes exempt tribal lands.

I'm talking about township governments in Wisconsin now, and tribal lands are not incompatible. In a statement I made to the subcommittee in February of 1972 I reflected the Flambeau situation here in Wisconsin quite extensively, and they had 114 square miles in their township, about a third of our area. They are part of Vilas County for general county purposes. They have all the voting rights and all the office holding rights of any other person in that county so there is no denial of constitutional rights. They don't pay taxes on Indian lands. About 40 percent of the land in Vilas County is tax exempt, mostly as Federal tribal land or trust land and some as national forest.

Now, that town has about $13 million on the tax roll, mostly by non-Indians but also some by Indians. The point I want to make is that it is a compatible situation and I would hope that the idea that the Congress can say to the State of Wisconsin that you and the Menominee people in agreement can work out a situation somewhat similar.

Mr. Miller has well developed the tax situation with respect to taxpaying people in Menominee County and I thoroughly agree with his analysis if adequate Federal funding is made available to the Indian sector.

That is all my remarks. Any questions?

Mr. **Meeds.** Thank you very much, Mr. Kenote.

You have raised some very interesting and some very difficult questions. Both counsel and I are convinced that these things are going to bear very close examination and again, I assure you that it is my intention to see that these things are examined closely and that we move very cautiously in this whole field of constitutional rights, property rights, vested interests, and things like that.

Mr. **Kenote.** I only have one other concluding remark with respect to the 2-year restriction on transfer of the assets, assuming a workable local government situation can be worked out, I think that we could hasten that day somewhat ahead of 2 years, not more than 2 years, let's leave it on that basis. But if sooner—because Menominee Enterprises and Menominee County needs some of these——

Mr. **Meeds.** Does the gentleman from New Mexico have any questions?

Mr. **Lujan.** No, Mr. Chairman.

Mr. **Meeds.** Thank you very much, Mr. Kenote.

The next two witnesses will be Miss Ellen Swedberg and Mr. Al Pyatskowit.

STATEMENTS OF ELLEN SWEDBERG AND ALFRED PYATSKOWIT

Mr. **Meeds.** Miss Swedberg, we are very happy to recognize and welcome you. We understand you are one of the few nurses in captivity in Menominee County.

We're delighted to have you with the committee. Would you like to proceed?

Ms. **Swedberg.** I am Ellen Swedberg, a registered nurse and senior public health nurse in Menominee County.

Just briefly, I am just going to summarize the situation as I see it right now.

Menominee County currently has two full-time nurses, one with public health certification and one working towards certification, a full-time clerk-stenographer and a sanitarian, all working in the public health field. The county also has the Community Health Center which consists of a full-time physician, an LPN, a receptionist and will have a lab technician shortly. Prior to termination the Menominees had a hospital located in Keshena and a health unit in Neopit both staffed with an M.D. They also had one full-time public health nurse who was involved primarily in TB care and followup and working in the schools.

The incidence of TB has greatly declined in the past 10 years and we now have a school nurse to work in the schools so we as public health nurses are currently aiming at preventive health care which involves teaching and education for the people to help them prevent illness and maintain a state of wellness. Prenatal care and teaching, dental health, and diabetes are currently three major problems in Menominee County, but I feel one of the most important needs is nutritional guidance and teaching. Nutrition is a major factor in the above mentioned problems and I feel much is needed in this area.

We have attempted to offer various classes, home visits, et cetera in many areas concerning public health such as maternal and child health, adult health, service to the handicapped, all areas of preventive care, and current public health group oriented functions. Reasons for this could be lack of transportation, not knowing what's available, not realizing the importance of public health and being unable to leave the home to attend.

We currently have a grant that covers dental care by any dentist in the State of Wisconsin for any Menominee County resident under the age of 19. We will also be getting a full-time dentist in Menominee County who will tentatively be arriving in July. We also have a grant through the maternal and child health section of the division of health which pays for family planning services to Menominee County residents. Again the main difficulty seems to be getting the information about these programs distributed so the people are aware that they exist.

We have tried and will continue to try and get current public health problems and information to the people as deemed necessary but public health activities can only continue and expand if they have the interest and support of all concerned.

Mr. MEEDS. Thank you very much.

We will hear both of you and then question you, if we may. So would you please proceed, after pronouncing your name for the court reporter.

Mr. PYATSKOWIT. My name is Alfred Pyatskowit, an enrolled member of the Menominee Indian Tribe of Wisconsin, and director of the Neighborhood Youth Corps which is sponsored by the county board of supervisors of Menominee County.

The past 9 months have been a learning experience for me in administering a Federal program and in working with Menominee young people. I have had the opportunity to observe the community and the young people served by the NYC program and find that the identification as members of the Menominee Indian Tribe has diminished to the point of nonexistence among many of the young people. Many realize that they are American Indian, but the Termination Act has left them with a loss of identification as recognized members of the Menominee Indian Tribe because they happened to be born after the closing of the official roll. Subsequently, a form of cultural shock has taken place and has left these young people in a void that may never be filled for them.

The lack of proper identification has deprived them of many services available to other American Indians, because the tribe is no longer recognized by the Federal Government.

What is happening to the young people of the Menominee Indian Tribe? Where there was once a willingness of tribal members to work together it now is becoming necessary to indicate to them that they will be paid for their efforts. Volunteers are not easy to find because of changing cultural attitudes.

The NYC program is a work experience program set up for disadvantaged people and earlier this spring was put down on paper as a failure because someone in Washington reported the lack of diversified work experience. The guidelines of the program limit the placement of enrollees to nonprofit organizations and you cannot help but be limited in the area of work diversification. Motivation drops because janitorial work becomes meaningless and does not offer the opportunity to learn a skill or open new avenues of interest. An individual's motivation is not stirred unless there is something of interest for him. Labor officials are now finding a sense of accomplishment is important in producing a quality product. If workers are not interested in what they are doing, product quality suffers. This is apparent in a NYC work experience program as it is now designed.

In order for the NYC program to be a more beneficial program for the Menominees it would be necessary to provide more flexible guidelines to meet the needs of the young people involved. There are only so many clerical and janitorial jobs in the county and when they are filled it becomes necessary to look elsewhere for employment. The moving of young people from the county results in the loss of tribal ways and the ending of the Menominee culture for the future of any nation lies with its young people to carry on the heritage of their ancestors, and for what it means to the Menominees of Wisconsin proper identification and recognition by the Federal Government as a sovereign Indian tribe.

Mr. MEEDS. Thank you very much, sir.

Do you have any money at all for the NYC program this summer?

Mr. PYATSKOWIT. This summer we do not have any extra funds which have been put out. We do have what they call unexpended funds from our in-school program which will amount to about $5000, which is enough for 12 young people at 18 hours a week.

Mr. MEEDS. What has your summer NYC program been running in the past 2 years?

Mr. PYATSKOWIT. In the past 2 years it has been running around 175 to 228.

Mr. Meeds. How many dollars?

Mr. Pyatskowit. This amounts to about $90,000.

Mr. Meeds. And that's cut back to $5,000 this year?

Mr. Pyatskowit. Yes.

Mr. Meeds. You're aware of the freezing of NYC funds, almost $300 million, by the President?

Mr. Pyatskowit. Right.

Mr. Meeds. But then we're told there's going to be some Emergency Employment Act funds made available. Have you been advised of that?

Mr. Pyatskowit. Yes, they are available, and this is only for 16 people.

Mr. Meeds. Sixteen people?

Mr. Pyatskowit. Right.

Mr. Meeds. But in any event, you feel that the NYC programs have to be made more flexible for Indian programs, is that correct?

Mr. Pyatskowit. Yes, they should be because they're looking for people who have some sort of a skill after they have gone through the program.

Mr. Meeds. Have you used any of your summer funds for parks and ecology and conservation programs?

Mr. Pyatskowit. I don't know what took place this past summer because I was not employed in the program at that time, but they were used, as I have looked at past records in parks as park aides.

Mr. Meeds. Since you are involved in manpower programs, let me just float an idea with you that I have been working on.

What would you think of combination Emergency Employment Act and old ARA accelerated public works, EDA concept of maybe school buildings, public health service buildings, hospitals, other public buildings, built by people who would be under Emergency Employment Act or public service employment programs, and then staffing them ultimately, or helping staff them ultimately, with people who are trained and who work under public service contracts for Indian reservations?

Mr. Pyatskowit. If it would leave them with a skill that would be saleable to the community and to the outside area, I would go along with the program, I think it would be very worth while.

Mr. Meeds. Miss Swedberg, I see by your testimony that you are receiving some funds through the maternal and child health section for family planning.

How much are you talking about in terms of dollars, do you know?

Ms. Swedberg. $2,400.

Mr. Meeds. How long have you been receiving that?

Ms. Swedberg. Since January.

Mr. Meeds. I'm advised that the birth rate in the Menominee County is about three times the State average. Is that about right?

Ms. Swedberg. To be honest, I don't know the figures.

Mr. Meeds. Is your program actually in progress now?

Ms. Swedberg. Yes.

Mr. Meeds. Are you making any headway?

Ms. Swedberg. Yes.

Mr. **Meeds**. Do you think you can get that birth rate cut down?

Ms. **Swedberg**. I don't know. I'm not as interested in the birth rate as in the health of the mothers and the children.

Mr. **Meeds**. That's good. That's what the program is all about.

The gentleman from New Mexico.

Mr. **Lujan**. Thank you, Mr. Chairman.

Very quickly, from the record of the NYC of last year, do you have any record of what they did, you say some clerical, and you said parks and some janitorial and clerical jobs; seems like this program could be much more diversified with 100 kids.

Do your records reflect that, what they might have been doing?

Mr. **Pyatskowit**. Well, the kind of things they did was to do the park work. They would help take care of the cemeteries. They also would do brushing in areas where it would look better without the brush, and as far as janitorial work, they worked in the non-profit buildings in the county here, and we also have a subcontract with the Green Bay parks system where they use some of the slots that were alloted here down there because we did not have an adequate number of work sites for them here.

Mr. **Lujan**. Do they have any in the health department?

Mr. **Pyatskowit**. Presently we don't, and it's an area that I could explore.

Mr. **Lujan**. That and the sheriff and the police, areas like that?

Mr. **Pyatskowit**. Right.

Mr. **Lujan**. Do you run a clinic, Miss Swedberg?

What do you do? You are a public health nurse?

Do you have an office?

Ms. **Swedberg**. We have an office. Primarily we make home visits; that is the main aim.

We have clinics and we have classes. We have, like immunization clinics and vision, hearing, hemoglobin——

Mr. **Lujan**. Do you have places where people can go if they are not feeling too well, a clinic, a place that has some sort of equipment or something if somebody is not feeling well?

I assume that you are the only health facility in the county.

Ms. **Swedberg**. We have a physician.

Mr. **Lujan**. Oh, you do?

Ms. **Swedberg**. Yes, and his office is located in Neopit. The dentist will also be under this program.

They can come into our office and depending on what we feel is needed we'll refer them to whomever we think should see them.

Mr. **Lujan**. Where is the closest hospital?

Ms. **Swedberg**. Shawano. There is one in Antigo also, depending on where you are.

Mr. **Lujan**. Are a great number of people on medicare and medicaid programs?

Ms. **Swedberg**. Yes.

Mr. **Lujan**. Would you say a large proportion?

Ms. **Swedberg**. Well, a large proportion of the people that we see are; as far as the total, I think a large proportion.

Mr. **Lujan**. Thank you, Mr. Chairman.

Mr. **Meeds**. I would ask you one more question, if I may.

Have you practiced nursing in other counties other than here?

Ms. Swedberg. Yes.

Mr. Meeds. Have you practiced with private practitioners?

Ms. Swedberg. No.

Mr. Meeds. Or practiced where they were practicing?

Ms. Swedberg. Yes.

Mr. Meeds. Would it be your professional judgment that the county is too sparsely populated for a private practitioner to be here unless he wanted to just be here for a labor of love?

Ms. Swedberg. With the third party payees, and then again, there's so many things involved in that, you know, personality, if he's going to be liked and seen by all of the residents, the local people and some outsiders, possibly, I think they could support one because there are insurance and medical cards and things like this.

Mr. Meeds. Why do you suppose it is then that there hasn't been one?

Ms. Swedberg. There aren't too many physicians in any communities of this size that are practicing. I don't know whether it's the doctors don't want to come, or what the deal is.

Mr. Meeds. If they're fortunate enough to find somebody that likes to fish and look at pretty birch trees, maybe they would find one but otherwise no? Isn't that correct?

Ms. Swedberg. Yes.

The doctor that we have, the National Health Service Corps, is in the whole United States and that's kind of what they're doing is placing physicans in communities that can't get a physician for some reason, usually because of the size.

Mr. Meeds. But on the other hand, if we pass the restoration bill, then Public Health Service would be available to this area under Indian Health?

Ms. Swedberg. Yes. I don't know how it's going to work, if it happens with this physician, if he could just go in with them or how it would work, I'm not sure.

Mr. Meeds. How long has dental service been available to children in the county?

Ms. Swedberg. Under this particular grant, I'm not sure. It has been here for I know at least the last 3 years, but I'm not sure how long before that. But one question you had asked before about the number of children; I talked with the school nurse a while ago and just some figures she gave me out of the total, there are four grade schools in the county and there are about 150 of the students that have seen a dentist and about 50 that have gone in more than once, which is a very low number.

Mr. Meeds. Thank you both very much.

Well, you've just managed to sit through your first full day of public hearings by a congressional subcommittee, and it was very interesting to me and I hope it was to you.

We're going to be back tomorrow to spend tomorrow morning further on the Menominee restoration and tomorrow afternoon with the entire questions of health and education in the State of Wisconsin as it applies to Indian children.

Part of our continuing promise as a subcommittee when we started our hearings on the Wounded Knee problem was to undertake an investigation of the underlying problems of which the Wounded Knee matter was an outward manifestation, and so we want to thank you all. You have been an excellent audience.

We will see you, those of you who are still able to motivate, at 9:30.

Thank you very much.

The hearing is adjourned.

[Whereupon, at 5:30 p.m., the hearing was adjourned, to reconvene at 9:30 a.m., on May 26, 1973.]

H.R. 7421—THE MENOMINEE RESTORATION ACT

SATURDAY, MAY 26, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Keshena, Wis.

The subcommittee met, pursuant to notice, at 9:45 a.m., in the Visitors Destination Center, Keshena, Wis., Hon. Lloyd Meeds (chairman of the subcommittee) presiding.

Mr. MEEDS. The Subcommittee on Indian Affairs of the Full Committee on Interior and Insular Affairs of the House of Representatives will be in session for further hearing of the matter of H.R. 7421, the Menominee Restoration Act.

The Chair would like to announce at the outset that we are beginning this morning on Indian time. I think it's only proper since yesterday we began on politicians' time. You might observe a striking similarity; they are both the same.

[General laughter.]

Mr. MEEDS. Yesterday we began 15 minutes late, so Mr. Froehlich could make it, and we began late this morning so we could have an Indian prayer by one of the elders of the tribe, but he hasn't made it yet.

When he comes we will have the prayer because if there's anything this subcommittee needs, it's a prayer.

[General laughter.]

Mr. MEEDS. I would first ask unanimous consent to insert after the statement and testimony of Congressman Froehlich and Congressman Obey of yesterday the following telegram from Governor Lucey:[1]

> I want to welcome you to Wisconsin and thank you and Members of the Interior Committee for coming here to conduct hearings. I would like to indicate my strong support for the Restoration of the Menominee Indians' tribal status. This has been a concern of mine since I have become Governor. Unfortunately my schedule will not permit me to attend these hearings; however I will be testifying on the restoration hearings in Washington D.C.—Patrick J. Lucey, Governor of Wisconsin.

Now, I would ask unanimous consent to insert immediately preceding the telegram of the Governor the full text of the testimony of the Honorable Gaylord Nelson, Senator from the State of Wisconsin, and would like to read you several portions of the testimony.[2] His assistant was here earlier this morning and left the

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[1] See telegram also on p. 3.
[2] Senator Nelson's statement will be found on p. 1.

Page 120 is blank

testimony with us because he had to go to another meeting. Among other things Senator Nelson says:

> Passage of the Menominee Restoration Act would be a suitable end to the twelve year struggle of the Menominee people to have the termination of their tribe restored, for in those twelve years the people of Menominee County have demonstrated their sincere desire and support for restoration. Clearly, the policy of termination forced on the Menominee Indian Tribe is wrong, both from a humanitarian standpoint and from an economic standpoint. The money that has been necessary to be injected into the Menominee economy to provide an amount of minimal assistance is far greater than would be the cost of reinstating the Tribe under federal jurisdiction and once again assuring that education, health needs and employment opportunities are given to the citizens.

And finally,

> The Menominee Restoration Act now in Congress reflects a serious effort at cooperation between the Members of Congress and the Menominee People to encourage swift consideration of the legislation by the appropriate Committees. Last year hearings were held in Congress but no action was forthcoming. This year, with the cooperation of all involved, it appears likely that Congress will have an opportunity to act favorably on a final version of the Menominee Restoration Act.
>
> Now is the time for Congress to act and move toward righting the wrongs perpetrated on the Menominee people. We must reassert and resume our treaty obligations toward the Menominee. The Restoration would do just that, protect their assets, land, resources and rights and provide the basic and necessary community services to which the Menominee people are justly entitled.

I ask unanimous consent that the entire statement be inserted immediately prior to the telegram of Governor Lucey.

Mr. Lujan. Mr. Chairman, reserving the right to object, and I shall not object, I think it's right to point out at this time that Senator Nelson and Senator Proxmire have introduced the same version of the bill H.R. 7421.

Mr. Meeds. Indeed, the gentleman is absolutely right.

I see our prayer man has arrived.

Mr. Ernest Neconish, would you come forward, sir.

[The invocation was given.]

Mr. Meeds. Our first witness of the morning is the former, very distinguished Lieutenant Governor of the State of Wisconsin, former Commissioner of Indian Affairs—John Fitzgerald Kennedy's first appointment as Commissioner of Indian Affairs—a former vice chairman of the Menominee Voting Trust. He is presently working as a professor of anthropology at American University in Washington, D.C.

Philleo Nash, please come forward.

Mr. Nash, it's a pleasure to see you here in your own State and to have the benefit of your very fine experience in this entire matter which is facing this committee.

STATEMENT OF PHILLEO NASH, PROFESSOR OF ANTHROPOLOGY, AMERICAN UNIVERSITY, WASHINGTON, D.C.

Mr. Meeds. Please proceed. I know that you are a practiced witness before congressional committees, having appeared a number of times, so please proceed as you desire, sir.

Mr. Nash. Thank you, sir.

Mr. Chairman and Congressman Lujan, with the committee's permission I would like to proceed by submitting a short, prepared statement which I will not attempt to read in its entirety unless the committee desires, but I would like to speak from it and then I have three or four additional documents that I would like to submit for the record as I progress.

Mr. Meeds. Without objection, your prepared statement will be entered at this point in the record.

[The statement of Mr. Nash follows:]

Statement by Philleo Nash

Mr. Chairman and members of the committee: My name is Philleo Nash and I reside at 540 N Street, S.W., Washington D.C. 20024. I am a native of Wisconsin, was born and educated here and I am still engaged in the cranberry business in this state. Concurrently, however, I am a Professor of Anthropology at The American University, Washington DC.

I am appearing today in support of the Menominee Restoration Act and I am representing both myself and the Association on American Indian Affairs. The Association adopted a resolution in support of the Menominee Restoration bill introduced in the last session of Congress and the Board authorized me to speak for the Association at the last Board meeting earlier this year.

With your permission I will make a brief statement about my connection with Menominee affairs, and I would like to offer three documents for the record.

My profession is anthropology and my specialty is "applied anthropology," which means only that I attempt to put the knowledge gained by the study of anthropology to practical use. Since boyhood I have been interested in the American Indians, so that the pursuit of my profession has led me naturally to the administration of government programs, such as education and resource development, and the relations between modern Indian communities and their non-Indian neighbours.

I entered government service in 1942, serving in the White House Office the last three years of the Roosevelt Administration and all seven years of President Truman's tenure. When Mr. Truman left office I stayed on for a year in Washington working with the National Congress of American Indians and the Association on American Indian Affairs to stem the tide of termination. I attempted to but failed to help the Menominees.

On my return to Wisconsin in 1954 I continued my efforts against termination which neither the Menominees nor the State of Wisconsin had sought. In 1968 I was elected Lieutenant Governor and continued my association with the Menominee leaders who were making preparations for the final act of termination. I felt highly honored to be elected Vice-Chairman of the Voting Trust, but my tenure was short-lived for I returned to Washington in 1961 in the administration of President Kennedy. I served briefly as a member of the Task Force on Indian Affairs and was made Commissioner of Indian Affairs in the fall of 1961.

I resigned that post in March of 1966 when it became clear that my continued presence in the office would postpone programs of Indian betterment to which I was committed. The office of Commissioner is highly expendable and my good will was used up, although not with the Indians.

Since leaving office I have divided my time between a consulting practise in economic development and the Biron Cranberry Company which I operate together with my wife and sister in Wisconsin Rapids, Wis.

By 1972 the termination tide has turned. A group of Menominees had decided to ask the Congress to restore Indian status to the Menominees and I volunteered my services. We began by forming the The National Committee to Save the Menominee People and Forest, which has continued, as it should, under Menominee leadership.

I support the pending legislation because I believe it is a necessary step for the survival intact of the Menominee people and their magnificent forest. I would emphasize, however, that restoration of Indian status is only the first step. Still unanswered are the respective roles to be played by federal and state governments and the tribe once it has been reconstituted. No doubt these will be developed during the legislative process, but they are not as yet provided for.

A restoration of trust status will preserve the assets of the enterprise for the time being, but the decade of Menominee termination has shown us that the economic base of the Menominee forest and mill is not adequate to today's human service needs and standards. It remains to be seen how these needs will be met, but I have believed for many years and continue now to believe that they can be met better and more effectively under federal trusteeship than in any other way.

I urge prompt passage of the Menominee Restoration Act.

Mr. Nash. Thank you.

Mr. Chairman and Congressman Lujan, for the record my name is Philleo Nash and I reside at 540 N Street, Washington, D.C. I am a native of Wisconsin, was born and educated here, and I am still engaged in the cranberry business in this State. Concurrently, however, I am a professor of anthropology at the American University in Washington, D.C.

I am appearing today in support of the Menominee Restoration Act and I am representing both myself and the Association on American Indian Affairs. This association adopted a resolution in support of the Menominee restoration bill first introduced in the last session of Congress and the board of the association has authorized me to speak for it, at the board meeting which was held just last month.

Mr. Chairman, I am by profession an anthropologist. It has been my fate, good fortune or bad fortune, as the case might be, to be personally familiar with the circumstances leading up to the termination of both of the tribes with large forest holdings. I did my first graduate research and my dissertation for my higher degree on the Klamath reservation where my wife and I resided very early in the Collier administration and 1 year after the passage of the Indian Organization Act of 1934.

You could see, even at that time, the foreshadowing of the effects of termination, the appearance of factionalism and the inability of the Klamath Tribe to organize itself so as to cope with these tremendous assets. They, like the Menominees, rejected the Indian Reorganization Act and their opportunities under it, and chose to proceed in a more traditional way.

Coincidentally, Mr. Chairman, I was studying at that time the events of 1870 which preceded the 1890 events by some 20 years but also led to a very famous confrontation, the Nodock War which was costly for the U.S. Government both in terms of treasure and blood and goodwill.

So, when I became interested in the Menominee affairs, and nobody can grow up in the cranberry business without being very much interested in the American Indian because cranberries and Indian people wherever cranberries grow have been very closely associated, the industry would never have come into being without the Indian people. We are greatly indebted.

So, it is perhaps natural that I would make my interest in Indian affairs, and I am an applied anthropologist, which means only that I attempt to put the knowledge gained by the study of anthropology to practical use. So, with a practical interest and an interest in the

American Indian generally, naturally my inclinations have been toward the study of the administration of Indian affairs, towards alternative possibilities for resource development, for improved human development, the reservation system, the administration of Indian affairs and in general, then the problem of what the best relations are that can be developed between Indian communities and their Indian and non-Indian neighbors.

I went to Washington in a war job in 1942 and ended up serving in the White House in the last 3 years of the Roosevelt administration and for all 7 years of Mr. Truman's. I had some firsthand experience then off the reservation level, but in the Washington front office level of the Indian affairs, because it was during Mr. Truman's administration that two very important things happened. One was the passage of the Indian Claims Commission Act and the other one was the great disaster of 1948, the winter of 1948 on the Navajo Reservation which led to the passage of the first comprehensive economic development act, the Navajo-Hopi Rehabilitation Act of 1950.

I mention these things because I want the committee to know that my interest in Indian affairs did not begin with the Menominees but I became acquainted with the Menominee problems fairly early in the game and pursued my interest over a very long period of years.

In 1953, Mr. Truman, of course, left office. I stayed on for a year, primarily to work with such organizations as the National Congress of American Indians and the Association on American Indian Affairs, to do what I could to stem the termination tide which was running very strong.

We were successful in a few instances of small tribes in either getting a deferment or getting the passage of the decision by the Congress not to extend termination to them, but we were not successful in helping the Menominees for a wide variety of reasons, but the main thing was that we tried and failed.

I returned to Wisconsin in 1954, still determined to do what I could to either stop Menominee termination or, if this was not possible, to do something to improve the process of adjustment and the programs that would be developed under it. I began at that time to work with a number of Menominee leaders, several of whom are present in this room.

There were various extensions, as the committee knows, of the Menominee Termination Act. In 1958, I was elected Lieutenant Governor. Among the constitutional duties of a Lieutenant Governor are those of presiding over the Wisconsin Senate.

I quickly found, in my first legislative experience, that the Wisconsin Legislature in both houses and in both parties was very upset about the way in which termination of the Menominees had come to Wisconsin. The State of Wisconsin did not want it, did not seek it, and attempted to put it off, to get it reversed or if possible, if that was not possible, to postpone it.

The tribe itself, the legislature felt, had not sought it and would vastly have preferred another arrangement, and we were not satisfied that the record of meetings, discussions, and voting represented substantial Menominee opinion. It was therefore a matter of mixed sorrow and pride to me that in the summer of 1959 the Legislature of Wisconsin adopted a memorial to Congress in which it begged the Congress to either reverse the Termination Act or failing that, to postpone it. And my signature is on that memorial to Congress as President of the Wisconsin Senate.

May I submit this for the record, Mr. Chairman?

Mr. **Meeds.** We'd be delighted if you would, sir. If there is no objection we will make it part of the record.

I think it's very important.

[The document referred to follows:]

State of Wisconsin Joint Resolution No. 79, S.

A JOINT RESOLUTION Memorializing the Congress of the United States to repeal the law providing for termination of federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin.

Whereas, heretofore the United States of America has been and now is legally responsible to the Menominee Indian Tribe for control and supervision of tribal property and service functions, including, but not limited to, service in the fields of health, education, welfare, credit, roads and law and order; and

Whereas, Public Law 83-399 (H. R. 2828), as last amended by Public Law 85-488 (H. R. 6322), an act to provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Indian Tribe from federal jurisdiction, provides, as the title implies: for terminating federal supervision and control over, and federal responsibility for, the property and members of the Menominee Indian Tribe; for distributing to members of the tribe of a share of the funds deposited to the credit of the tribe in the United States Treasury; for giving the members of the tribe complete independence; for making the tribe dependent on its own resources; for making the tribe responsible for its own services in all fields, including the fields of health, education, welfare, credit, roads and law and order, subject to their rights, obligation and privileges as free citizens; and for terminating the sovereignty of the Menominee Indian Tribe; and

Whereas, it clearly appears from evidence and statements of competent persons in joint hearings before the Subcommittee of the Committees on Interior and Insular Affairs during the second session of the 83d Congress on section 2813, H. R. 2828 and H. R. 7135, that the delegates of the tribe committed themselves to a program for withdrawal of federal supervision on which they were not in accord because they were told by the chairman of the senate subcommittee that if they did not so commit themselves there would be no action on their pending per capita bill providing for a per capita payment of $1,500 to each member of the tribe to which they were already legally entitled and for which there was approximately $10 million of tribe money on deposit in the U.S. Treasury; hence such commitment from tribe delegates was obtained by duress was not voluntary and was against the wishes of both the tribe and its delegates (see p. 594 of printed transcript); and

Whereas, this was done contrary to the expressed wishes of the Menominee Indian Tribe that the per capita payment be dropped if it required such withdrawal; and

Whereas, the tribe itself and the members of the Wisconsin Legislature are of the opinion that the proposed termination of federal supervision is premature and requires more time in order that the general educational level and experience of the tribe can be further developed so that the tribe can be ready to assume such responsibilities; and

Whereas, past experiences of independent and unprotected American Indians losing their goods, lands and resources by the device or artifice of the unscrupulous are legend and furnish a shameful pattern for what can be expected and what might happen to the possessions of the Menominee Indians if federal supervision and control over their persons and property is unconditionally relinquished on or before December 31, 1960, as provided by said act of the Congress; now, therefore, be it

Resolved by the senate, the assembly concurring, That the legislature of the state of Wisconsin requests the Congress of the United States to repeal or amend Public Law 399 of the 83d Congress, (Chapter 303–2d Session; H. R. 2828), as amended, so as to retain and continue indefinitely federal supervision over the Menominee Indian Tribe, continue tribe sovereignty pursuant to the treaty with the tribe which places on the federal government a legal responsibility which should not be lightly disregarded and revoke the provisions of said law authorizing the withdrawal of the Menominee Indian Tribe from federal jurisdiction and terminating federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin until such time as the Menominee Indian Tribe has achieved a status comparable and equal to the average citizen of the environs in which they live and until the tribe has initiated a request for the termination of the tribal status and such request has been approved by an official vote of the enrolled members of the tribe; and, be it further

Resolved, That if the federal government declines to honor the above request for the repeal of existing termination legislation, the legislature requests that the final date for agreement between the Secretary of the Interior and the tribe be extended from August 1, 1959, to December 31, 1959, in order that the termination plan may be given more careful consideration to provide maximum protection of the interests of the Menominee Indians; and, be it further

Resolved, That properly attested copies of this resolution be sent to the presiding officer of each house of the Congress, to each Wisconsin member of the Congress, to the Honorable Dwight D. Eisenhower, President of the United States, and to the Honorable Fred A. Seaton, Secretary of the Interior.

GEORGE MOLINARO,
Speaker of the Assembly.
PHILLEO NASH,
President of the Senate.
NORMAN C. ANDERSON,
Chief Clerk of the Assembly.
LAWRENCE R. LARSON,
Chief Clerk of the Senate.

Mr. NASH. May I, for the committee's guidance, underline a few matters in the resolution?

I will not attempt to read all of it.

The Legislature of Wisconsin did find that the delegates of the tribe committed themselves to a program for withdrawal of Federal supervision on which they were not in accord because they were told by the chairman of the Senate subcommittee that if they did not so commit themselves there would be no action on their pending per capita bill providing for a per capita payment of $1,500 to each member of the tribe, to which they were already legally entitled and for which there was approximately $10 million of tribal money on deposit in the U.S. Treasury.

On page 2, Mr. Chairman, in the copy I have submitted in this resolution, I have underlined two paragraphs:

> Whereas, the tribe itself and the members of the Wisconsin Legislature are of the opinion that the proposed termination of federal supervision is premature and requires more time in order that the general educational level and experience of the tribe can be further developed so that the tribe can be ready to assume such responsibilities; and
>
> Whereas, past experiences of independent and unprotected American Indians losing their goods, lands and resources by the device of artifice of the unscrupulous are legend and furnish a shameful pattern for what can be expected and what might happen to the possessions of the Menominee Indians if federal supervision and control over their persons and property is unconditionally relinquished on or before December 31, 1960 as provided by the said Act, now, therefore, be it resolved in the Legislature of Wisconsin asks for repeal or extension failing that.

At some point in here, Mr. Chairman, and my memory fails me, either just after the passage of this act or sometime later, members of the Menominee tribe with whom I had been working in planning for the fateful day on which it would become reality, Mr. George

Kenote and others—my recollection is that there was nobody who wanted it, nobody that looked forward to it. It was a sad occasion but it seemed to everybody present that if the inevitable was going to come down upon us then we had better be prepared, and that was, I can assure you, the atmosphere in which the then attorney general of Wisconsin, Mr. John Reynolds, and then Governor of Wisconsin, Gaylord Nelson, approached the fact that the State had studied, had made plans, but that there were, when we took office in 1959, no complete plans ready for execution.

Therefore, the Menominee Study Committee, in association with the planning committee of the Menominee Tribe, pressed forward with the necessary arrangements for the day in which all of this would take place.

I was highly honored when the tribe asked me to be vice chairman, the highest ranking nonmember of the voting trust. I must say, it was a very short-lived honor because I attended only one session and soon thereafter, although we had been working with the individuals very closely, I soon thereafter went to Washington in the Kennedy administration.

Of course, that created a conflict of interest situation and I therefore resigned my position as vice chairman, but I can assure you that I am very proud of having been selected by the Menominee leaders for that position and I am very careful to mention it always in my biographical sketches. I never say how long it lasted. [General laughter.]

Mr. Nash. When I came to Washington as the assistant to the Assistant Secretary for Land Management, Mr. John Carver, the fateful day, 1961, was still 2 or 3 months away. The Kennedy-Udall administration did what it could, made a valiant effort to even at the last minute, to prevent the termination from actually taking place.

There was pending at that time a bill to lessen the impact of the termination of Federal services to the Menominee Indian Tribe and Mr. John A. Carver, Jr., as Assistant Secretary of the Interior, submitted a report on that bill.

I wish to call the committee's attention to a portion of this report because I think it is highly pertinent to the matter under discussion at the present time. I ask the committee's permission to submit the report, No. 272, 87th Congress, 1st session, in the record at this point.

Mr. Meeds. Without objection it is received for the record.

[The report referred to follows:]

[Report No. 272, 87th Cong. First Sess.]

LESSENING THE IMPACT OF THE TERMINATION OF FEDERAL SERVICES TO THE MENOMINEE INDIAN TRIBE OF WISCONSIN

Mr. Haley, from the Committee on Interior and Insular Affairs, submitted the following report.

[To accompany H.R. 4130]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4130) to amend the Menominee Termination Act, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Strike all after the enacting clause and insert in lieu thereof the following: That in order to lessen the impact of the termination on April 30, 1961, of Federal services to the Menominee Indian Tribe of Wisconsin pursuant to section 7 of the Act of July 17, 1954 (68 Stat. 251), as amended (25 U.S.C. 896), the Secretary of the Interior is authorized—

(a) to make such loans to Menominee Enterprises, Incorporated, as are required for the expansion and modernization of existing tribal enterprises and for the development of tribal resources, said loans to be made at such time, in such amounts, and on such terms and conditions as the said Secretary deems appropriate. The total amount of all such loans shall not exceed $2,500,000, and each loan shall bear interest at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the estimated rate of interest on new long-term borrowing by the United States as of the first day of the month immediately preceding the month in which the loan is made; and

(b) to make grants for the following purposes and in not more than the following amounts to the State of Wisconsin for distribution to Menominee county or to other appropriate State agencies or political subdivisions for the benefit of said county:

(i) during the year ending April 30, 1962—

for education services (including administrative costs, aid to common schools, agricultural and home grants, tuition for outside training, and contributions to joint school district costs), $250,000 for health and sanitation services (including hospitalization of the tubercular, employment of a public health nurse and a sanitary aide, immunization against communicable diseases, the collection and disposal of garbage and refuse, and the collection and recording of vital statistics), $90,000

for public welfare (including administrative costs, public assistance, indigent medical care services, child welfare, veterans services, surplus commodities, general relief, and the services of state hospital, mental institutions, and industrial schools), $200,000;

(ii) during the year ending April 30, 1963, 80 per centum of each of the amounts aforesaid;

(iii) during the year ending April 30, 1964, 60 per centum of each of the amounts aforesaid;

(iv) during the year ending April 30, 1965, 40 per centum of each of the amounts aforesaid;

(v) during the year ending April 30, 1966, 20 per centum of each of the amounts aforesaid;

(vi) during the year ending April 30, 1967, 10 per centum of each of the amounts aforesaid;

(c) to make a grant or grants in the manner aforesaid for continuation of construction of sanitation facilities, not in excess of $438,000.

SEC. 2. Any grant made under this Act shall be made only upon such written assurances relating to control and supervision by responsible State officials to insure that the grant is used for the purposes intended as the Secretary may require. No grant shall serve to diminish the amounts which Menominee County or other political subdivisions of the State of Wisconsin are entitled to receive from the State as provided by its laws, except so far as such dimunition arises from treating the grants as if they were taxes raised by said county and subdivisions for purposes of determining what amounts, if any, the State is required to pay to said county and subdivisions under its laws.

SEC. 3. There are hereby authorized to be appropriated such sums, not in excess of $4,612,000, as are required to carry out the provisions of this Act.

Amend the title so as to read:

A bill to lessen the impact of the termination of Federal services to the Menominee Indian Tribe of Wisconsin.

PURPOSE

The purpose of H.R. 4130, as amended, is to furnish assistance to the people of the Menominee Indian Tribe during the first years after termination of Federal supervision over the affairs of the tribe and thus to avoid many harsh results which might follow from a too sudden transition from a protected status to complete freedom. Termination of Federal supervision, provided for in the act of June 17, 1954 (68 Stat. 250), as amended (25 U.S.C. 896) occurs on April 30, 1961.

In order to accomplish this result, the amendment to H.R. 4130 provides for a loan to Menominee Enterprises, Inc., of $2,500,000 at an interest rate approximately equal to the cost to the Government of borrowing money. The loan will be used to expand and modernize existing tribal enterprises (principally a sawmill) and to develop tribal resources. The amendment also provides for grants totaling approximately $2,600,000 over a 6-year period for essential health, education, and welfare services. These grants will be handled, after appropriations are made, by responsible officials of the State of Wisconsin. Except for a capital grant for completion of construction of sewerage facilities for the towns of Neopit and Keshena, the grants will be scaled down year by year during the 6-year period until they reach zero.

The amendment proposed by the committee takes the place of proposals contained in H.R. 4130, as it was introduced, and in H.R. 4444, which provide for a delay in the termination date fixed by present law and for various other changes in that law. H.R. 4130 and H.R. 4444 were both introduced by Congressman Laird.

NEED

Two new and important organizations have been created as parts of the termination program—Menominee Enterprises, Inc., and Menominee County, Wis.

The corporation, organized under the laws of the State of Wisconsin, will have transferred to it the sawmill and other assets of the Menominee Tribe and will manage its business ventures. A recently completed study by a competent engineering management firm has recommended a complete modernization of the sawmill, kiln, and storage facilities. Because of a depressed lumber market, a very high timber inventory, an outmoded plant, and a depleted cash reserve, the corporation lacks the means to carry out this recommendation. The $2,500,000 loan fund provided for in the committee amendment will, it is believed, furnish sufficient capital for the corporation to carry through the program that has been outlined for it.

The new county covers the area which is now within the Menominee reservation. Its population, almost entirely Indian, is about 3,200. It includes the forest holdings of the corporation and has a tax base of approximately $17 million. Wisconsin ordinarily limits the amounts that counties and towns may levy for local support to 1 percent of the assessed valuation of their real property. In the case of the Menominee County this rule has been modified to permit county levies of 1½ percent and town levies of one-half of 1 percent. At these rates, the total possible collection will be $340,000, or less than half the estimated amount required to operate the local governments.

In order to furnish temporary assistance in this situation and to avoid throwing an undue burden on the State, the committee recomends the authorization of Federal funds over a 6-year period to the State for distribution to Menominee County or to other appropriate State agencies or political subdivisions of the State for the benefit of Menominee County. The amount which the amendment would authorize to be appropriated for the first year was developed partly on the basis of a budget presented by spokesmen for the Menominee Tribe and partly on the basis of informal consultations by members of the committee and its staff with Congressman Laird and with representatives of the State of Wisconsin and the Department of Health, Education, and Welfare. It is intended to reflect the same sort of essential aids in the health, education, and welfare fields that, up to this time, have been furnished by the Federal Government to the Menominee Tribe under such laws as the Johnson-O'Malley Act and the Impacted Areas Act. The figures for the subsequent years represent 80, 60, 40, 20, and 10 percent of the base amounts. These figures are the maximum amounts that are authorized to be appropriated. They thus put ceilings on Federal contributions and will serve to prevent any inflation of the program of local services at the expense of the United States. Should the cost of these services decline or turn out to be less than is presently estimated, the amounts actually appropriated will, of course, be lessened. Since the appropriations asked for will have to be justified year by year, there will be opportunity for adjustment in the amounts actually appropriated within the maximums set forth in the amendment. A schedule of the grants proposed to be authorized under this phase of the committee's amendment follows:

Year	Education including joint school district	Health and sanitation	Public welfare	Total
1962	$250,000	$90,000	$200,000	$540,000
1963	200,000	72,000	160,000	432,000
1964	150,000	54,000	120,000	324,000
1965	100,000	36,000	80,000	216,000
1966	50,000	18,000	40,000	108,000
1967	25,000	9,000	20,000	54,000
Total	775,000	279,000	620,000	1,674,000

Although the appropriations will be made to the Secretary of the Interior and will be disbursed by him, thus assuring a proper degree of Federal administrative control at the initial stage, the committee amendment provides for their distribution to and through governmental agencies of the State of Wisconsin which, after termination of Federal supervision of the tribe, will stand in the same relation to the Menominee Indians as they do to all other citizens residing in the State. This arrangement will help to assure that health, education, and welfare services will be administered, as nearly as may be, in accordance with the same standards that are applicable throughout the State.

The sum authorized to be appropriated for construction of a sewerage system is the difference between the $555,000 estimated cost of the system and the $117,000 which has already been obligated for this purpose. The improvements were approved as part of the termination program in order to meet minimum standards set up by the State.

COST

The total cost of this legislation will not exceed $4,612,000, of which the $2,500,000 in the loan fund will be reimbursable to the Federal Government. As an offset against this sum it must be remembered that the cost to the Federal Government of administering the affairs of the Menominee Tribe since 1954 has approximated $4 million, of which over $2½ million have been appropriated in the form of special benefits relating to the termination program.

DEPARTMENTAL REPORTS

The report of the Secretary of the Interior on H.R. 4130 and H.R. 4444, dated April 10, 1961, is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 10, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: Your committee has requested a report on H.R. 4444, a bill to amend the Menominee Termination Act to extend Federal supervision of the Menominee Indian Tribe, and provide necessary assistance, to enable such tribe to make an orderly transition to its status after such supervision ends.

We recommend that the bill be enacted if amended as suggested below.

The bill amends the act of June 17, 1954 (68 Stat. 250), as amended by the act of July 14, 1956 (70 Stat. 544), as amended by the act of July 14, 1956 (70 Stat. 549), as amended by the act of July 2, 1958 (72 Stat. 290), as amended by the act of September 8, 1960 (74 Stat. 867). It extends the date for the termination of the special Federal trusteeship over Menominee tribal affairs from April 30, 1961, to April 30, 1969; authorizes Federal loans up to $2,500,000 to the tribe or its successor entity for the development, expansion, and modernization of Menominee business operations; exempts the Menominee tribal assets from Federal and State income taxes and State property taxes for 8 years; and makes the already established and functioning Menominee Enterprises, Inc., organized under the laws of the State of Wisconsin, a Federal corporation.

The Menominee Tribe has had considerable advisory service available to it in the course of planning for its unrestricted status. It retained, largely at

Federal expense, a prominent and respected firm of corporation lawyers in Wisconsin; many of the State agencies and various offices of this Department assisted them; the University of Wisconsin supplied technical experts and social scientists; and the State legislature enacted special legislation. The plan that the tribe developed and submitted to the Department was approved by this Department pursuant to the 1954 act. The tribe has already completed all of the organizational steps necessary to put the plan into effect. There remains a complex of ministerial chores to be performed by April 30, 1961, entailing performance on the part of this Department, the Menominee Tribe, and the State of Wisconsin.

It is expected that these steps can be taken in a timely and orderly manner. It does not appear to us that an extension of time is necessary for this particular purpose.

The Menominee Tribe is concerned about its economic prospects. It is apprehensive about whether, in the light of its current financial condition and the current depressed lumber market, it can realize the necessary income for the county to be created and provide public services meeting Wisconsin standards; modernize and expand the lumber mill and other enterprises; and provide other sources of income for the members. The Menominee plan on page 15 contains the following statement:

"By increasing the annual cut on the Menominee Forest, within agreed limits of sound sustained yield practice, it is estimated that Menominee Enterprises, Inc., will be able to realize net earnings of $400,000 to $450,000 per year after taxes and before payments to stockholders. This is approximately the amount of payments made to tribal members over the past several years as so-called stumpage payments. It is contemplated that most of this amount will be paid to holders of the income bonds to be issues by the corporation.

To accomplish its plan, the corporation will have to expand its production of lumber and related products, while increasing its sales proportionately; and to realize maximum profits some modernization of plant will be required. The tribe has received a report from the engineering consulting firm which it hired to analyze its present mill operation and advise on means for modernizing and improving efficiency. The present concern of the tribe stems from the fact that it is not able to sell all of the present production of lumber at prices it considers fair. Some crucial comparisons are set out below on the Menominee mill operation from July 1 to February 28 periods for this fiscal year and last year.

	8 months fiscal year 1960	8 months fiscal year 1961
Board feet lumber produced	9, 927, 017	11, 725, 913
Board feet lumber sold	12, 287 952	6, 861, 025
Receipts from sales	$1, 140, 983. 33	$650, 865. 64
Book inventory in yard	$945, 110. 18	$1, 522, 339. 23
Operating profit	$59, 721. 17	9, 727. 42

From these figures, it can be seen that the mill is producing lumber at an increased rate, but well below the limitation of 22 million board feet a year allowed by the law. Sales and receipts have fallen aff almost 50 percent. At the same time, there appears to be some grounds for believing that management's operations may be appreciably more efficient this year.

That the lumber market is off is well known. We are informed that for the Lake States area the hardwood and hemlock indexes of sales are down only about 18 percent, whereas the slump at Menominee is considerably more than twice that. Some remedies have already been undertaken. Production volume has been shifted to a preponderance of hardwood, where the market is more favorable; and we have amended the mill budget, recently, to provide $8,000 for fees for commission agents to supplement the mill's sales office.

It should be expected that at times there will be a drop in sales and receipts of the Menominee lumber business. There is every reason to believe that, over a period of time, the mill will be a profitable operation. We do not consider the present situation to be a basis to doubt the soundness of the Menominee's overall plan. But extreme difficulties face the tribe in the immediate future.

At the time of the enactment of the Menominee trust termination statute in 1954, the tribe had U.S. Treasury balances of $10,403,302. The Termination Act directed the payment of $1,500 per capita to each enrolled member, and $4,932,538 was distributed pursuant to it.

In the following year, 1955, based upon a ruling of the Department Solicitor, payments for the year 1941 through 1954 were recomputed and it was determined that the tribal members had been underpaid by almost $2¼ million for those years. The Commission of Indian Affairs urged the tribe to voluntarily take less than the full redistribution, but the tribe voted otherwise.

The Menominees had, in effect, been financing their tribal services costing an average of $350,000 a year from the value of the stumpage put into the mill. As the members of the tribe were unwilling to accept a reduced amount or to cut back the services provided by the tribe such as welfare and relief, law and order, hospital and medical services, payments to parochial schools, legal services, utilities, construction and maintenance, garbage removal, fire protection, etc., an annual operating deficit of more than $250,000 has had to be taken from the tribe's funds.

By the April 30, 1961, date now set for trust termination, the Menominees will have cash balances in the vicinity of $1,300,000. They will have real property appraised at $35 million discounted by the State to $16 million for tax purposes in consideration of the sustained-yield requirement. They have a lumberyard, byproducts, and log inventory valued on the mill books at $1,900,000.

The engineering firm retained by the tribe has made a report indicating approximately $1 million can profitably be invested to improve the present lumber mill without changing the basic type of operation. There will doubtlessly be other opportunities to improve the Menominee's economy which will require capital investment.

In order to afford the Menominees every chance for success, important to them, the State, and the Federal Government, Congress might consider the enactment of enabling legislation for Federal credit on a standby basis. The tribe has not had an opportunity yet to develop fully its plans for providing an adequate economy. The restrictive covenant that is attached to their forest property, encumbering its ready negotiability, may make it difficult to get commercial credit for industrial expansion. Providing Federal credit can be accomplished by the following amendment:

Strike everything after the enacting clause and substitute the following:

"That notwithstanding the publication of the proclamation and the effect thereof as provided in section 10 of the Act of June 17, 1954 (68 Stat. 252), as amended, the Secretary of the Interior is authorized to make loans to Menominee Enterprises, Inc., during the four-year period following the date of this Act, for the purpose of financing an expansion or modernization of the corporation's business operations, under the following conditions:

"(1) The Secretary shall be satisfied that adequate funds for the purpose cannot be borrowed on the commercial money market on reasonable terms.

"(2) Each loan shall be authorized in not more than 20 years.

"(3) Each loan shall be secured by a mortgage or pledge of property satisfactory to the Secretary, and an agreement that the corporation will pay no dividends or make any other payment to the holders of its stock or income bonds as long as any payment on its loan is delinquent.

"(4) Each loan shall be based upon a loan agreement that contains such additional terms and conditions as the Secretary deems appropriate.

"Sec. 2. Notwithstanding any other provision of law, any loan made pursuant to this Act may be transferred for administration, collection, and foreclosure of security if necessary to any Federal agency by agreement between the Secretary of the Interior and such agency.

"Sec. 3 There is authorized to be appropriated for the purpose of this Act not to exceed $2,500,000."

It is most important to note that section 4 of the bill, providing for a Federal charter, is seriously deficient in draftsmanship in its attempt to accomplish the purposes of the sponsors. We do not offer any substitute language because we recommend that no attempt be made to superimpose a Federal charter on a corporation operating under State laws. Should your committee decide, however, to recommend favorably on this part of the bill, we suggest that our staff be given an opportunity to work with the committee in drafting suitable language. The importance of this can be perceived from a letter of the Menominee Tribe's attorney, furnished to us by the tribe on March 3, 1961, which we understand has also been made available to the committee. Though necessarily lengthy, it says in pertinent part:

"Section 4 of H.R. 4444 ratifies and affirms the article of incorporation of Menominee Enterprises, Inc., 'as revised November 11, 1959.' The article included in the termination plan are marked 'revised November 30, 1959,' and we are not certain whether these are the same, but in any event the latter date is the one which should be used in H.R. 4444. It then states that the corporation 'should be considered to be chartered under Federal law.' We do not know and we doubt if any lawyer can state just what would result with passage of this section. Does the State corporation continue to function under Wisconsin's modern and very detailed corporate law, with a Federal charter besides, or is the State corporation to be dissolved? If it continues under the dual form of chartering, what Federal laws govern and to what extent do they supersede State laws? We do not know what this section or the idea of chartering the corporation under Federal laws contributes to the purpose which the tribal leaders have in mind and believe that this section only creates doubt and confusion and even possible litigation. It should be stated that the Wisconsin corporation, Menominee Enterprises, Inc. (as required by Public Law 399 to be done by March 1), is already established and functioning.

While we are of the opinion indicated above that the Menominee termination plan is a sound one and can be made to succeed, nevertheless, the plan may encounter serious difficulties, and hardships may result to the tribe, the State, and local units of government. We therefore suggest that:

1. Instead of transferring title to all of the tribal property to Menominee Enterprises, Inc., on April 30, 1961, as now required by law, the Secretary might be authorized, if the Congress so desires after hearing from the State and the Indians, to make the transfer at any time prior to April 30, 1965, that he determines is justified. If this were done, the Secretary could be authorized to enter into a contract with Menominee Enterprises, Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting the business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so. Menominee Enterprises, Inc., could proceed immediately to run the mill, test whether the cut can be increased from 22 million to 29 million board feet annually, whether the increased cut can be marketed successfully, and how many Indians properly can be employed in a businesslike operation.

If there is to be any continuation of Federal financial assistance beyond 1961 we believe that it should be based upon a continuation of the Federal trust during the period of assistance, and not be in the form of Federal subsidy after a termination of the trust.

2. In order that the proposed new county may be organized and commence to function, the contract between the Secretary and the Menominee Enterprises, Inc., could require the corporation to contract with the county for a payment in lieu of taxes for the period prior to the date of actual transfer of title to the corporation.

This procedure would allow the Federal Government to retain its basic authority for a transition period of not to exceed 3 years, and to lend a guiding hand if needed. The corporation and the county would be able to assume their responsibilities immediately, however, and start developing the full potentials of the reservation. This Department would be in a position to give advice and assistance as needed. If experience shows that the plan is likely to prove unsuccessful, title to the reservation would still be in the Federal Government and no irrevocable decision would have been made.

If Congress wishes to proceed along such lines, the following additional language should be included in the bill:

"SEC. 4 (a) Section 7 of the Act of June 17, 1954 (68 Stat. 252), as amended, is amended by deleting 'shall cease on April 30, 1961, or on such earlier date as may be agreed upon by the tribe and the Secretary' and by inserting in lieu thereof 'shall cease when a transfer of title to tribal property has been completed in accordance with the provisions of section 8 of this Act.'

"(b) The first sentence of section 8 of said Act is amended by changing 'April 30, 1961', to 'April 30, 1965.'

"(c) Section 8 of said Act is further amended by designating the present language as subsection (a) and by adding the following new subsection (b): '(b) For the period preceding the transfer of title to the tribal corporation as provided in subsection (a) of this section, the Secretary is authorized to contract with the tribal corporation for the management and administration of all or any part of the tribal property in accordance with such terms and conditions as the Secretary may prescribe, notwithstanding any other provision of law. The contract may provide for management and administration as nearly as possible in accordance with the terms of the plan prepared pursuant to section 7. The contract may require the tribal corporation to contract with the local county for a payment in lieu of taxes for the period prior to the date of transfer of title to the corporation.'"

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 4130, as amended.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JUNE 17, 1954 (68 STAT. 250), AS AMENDED (25 U.S.C. 891)

* * * * * * *

SEC. 7. The tribe shall as soon as possible and in no event later than February 1, 1959, formulate and submit to the Secretary a plan for the future control of the tribal property and service functions now conducted by or under the supervision of the United States, including but not limited to services in the fields of health, education, welfare, credit, roads, and law and order, and for all other matters involved in the withdrawal of Federal supervision. The Secretary is authorized to provide such reasonable assistance as may be requested by officials of the tribe in the formulation of the plan heretofore referred to, including necessary consultations with representatives of Federal departments and agencies, officials of the State of Wisconsin and political subdivisions thereof, and members of the tribe. The Secretary shall accept such tribal plan as the basis for the conveyance of the tribal property if he finds that it will treat with reasonable equity all members on the final roll of the tribe prepared pursuant to section 3 of this Act, and that it conforms to applicable Federal and State law. In the event the tribe fails to submit a plan approvable under the terms of this Act by February 1, 1959, the Secretary shall cause such a plan to be prepared and submitted to the tribe within three months thereafter. The tribe shall thereafter have three months within which to accept the plan of the Secretary or to submit to the Secretary tribal proposals for modification. If the Menominee Tribe and the Secretary cannot agree upon a plan within the aforementioned six-month period, or if they agree upon a plan within such period and the tribal corporation and voting trust contemplated by the plan are not established prior to November 1, 1960, the Secretary shall transfer the tribal property to a trustee of his choice for management or disposition for the benefit of the Menominee Tribe.

The responsibility of the United States to furnish all such supervision and services to the tribe and to the members thereof, because of their status as Indians, shall cease on December 31, 1960, or on such earlier date as may be agreed upon by the tribe and the Secretary. The plan shall contain provision for protection of the forest on a sustained yield basis and for the protection of the water, soil, fish and wildlife. To the extent necessary, the plan shall provide for such terms of transfer pursuant to section 8 of this Act, by trust or otherwise, as shall insure the continued fulfillment of the plan. The Secretary, after approving the plan, shall cause the plan to be published in the Federal Register. The sustained yield management requirement contained in this Act, and the possible selection of a trustee in the event of a tribal planning default, shall not be construed by any court to impose a financial liability on the United States.

SEC. 8. On or before April 30, 1961, the Secretary is authorized to transfer to the tribal corporation or to a trustee of the Secretary's choice, as provided in section 7 of this Act, the title to all property, real and personal, held in trust by the United States for the tribe. The Secretary is hereby directed to begin immediate negotiations with a private trusee of his choice to perfect a trust agreement so that if by March 1, 1961, the tribal corporation is not functioning, the Secretary will be prepared to transfer title to such property to said trustee as soon after March 1, 1961, as possible, but in no event later than April 30, 1961. The Secretary is authorized, in his discretion, to transfer to the tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribe will derive benefits.

SEC. 9. No distribution, conveyance, or transfer of title to assets and no issuance or distribution of securities pursuant to the plan approved by the Secretary under the provisions of this Act shall be subject to any Federal or State transfer, issuance, or income tax: *Provided*, That nothing in this Act shall exempt the recipient of any cash distribution made hereunder from payment of income tax for the year in which the distribution is made on that portion of his share thereof which consists of interest on funds deposited in the Treasury of the United States pursuant to the Supplemental Appropriation Act, 1952 (65 Stat. 736, 754). Following any distribution, conveyance, transfer, or issuance as aforesaid, the assets and securities which are held by, and any income derived therefrom which is received by or payable to, any person, or any corporation or organization as provided in section 8 of this Act, shall be subject to the same taxes, State and Federal, as in the case of non-Indians, except that the basis of any valuation for purposes of Federal income tax on gains or losses shall be the value of the property on the date title is transferred by the United States pursuant to section 8 of this Act.

* * * * * * *

SEC. 14. Notwithstanding any other provision of this Act, the Secretary of the Interior is authorized to contract with the Wisconsin Department of Public Instruction, prior to the date for terminating Federal responsibilities, for the completion of a vocational or undergraduate college program of any member of the Menominee Tribe who has been accepted for such program prior to the termination date.

SEC. 15. *If the Secretary of the Interior determines that more time is needed before the transfer of property to the tribal corporation or a trustee as provided in section 8 of this Act, and before a termination of Federal responsibility for furnishing supervision and services to the tribe as provided in section 7 of this Act, he is authorized to postpone such transfer of property and termination of Federal responsibility to a date he determines is reasonable.*

Mr. NASH. I am now going to direct the committee's attention to some details which appear on pages 5, 6, 7, 8, and 9 and 10 of said report with the signature of John A. Carver, Jr., the Assistant Secretary again. I of course am not going to attempt to read the whole thing.

The very significant portion here, Mr. Chairman, is that the Department at this point desired the House of Representatives and its committee and subcommittee to be aware of the departmental opinion that aid was necessary but that the aid ought to be associated with retention of the trust status, not to come as a subvention after the dissolution of the trust, so the report goes into the matter of severance of the trust, it goes into the matter of the aid, and makes the point about the retention of the trust, suggests that the date of termination be deferred for several years, and proposes a very important method of contracting as a means of taking care of the essential community services and the execution of the trust in the meantime.

Now, contracting, as I'm sure the members of this committee know better than I, goes back to an authority of Congress first granted in 1910. It is not a new concept but it is one which has laid unused for a great many years.

Mr. MEEDS. And we've come full circle again too, because the administration is again suggesting that ——

Mr. NASH. It is again suggesting that, and I shall support it wholeheartedly, and I endorse it.

In my time as Commissioner we made extensive use of contracting in this very important matter of Menominee termination. It was proposed by the Department but the committee did not see fit to accept the advice.

Specifically, let me call your attention to the paragraphs at the bottom of page 8. While we are of the opinion indicated above, the Menominee termination plan is a sound one and can be made to succeed. Nevertheless the plan may encounter serious difficulties and hardships may result to the tribe, the State and local units of government. We therefore suggest that: (1) instead of transferring title to all of the tribal property to Menominee Enterprises Inc., on April 30, 1961, as now required by law, the Secretary might be authorized if the Congress so desires after hearing from the State and the Indians to make the transfer at any time prior to April 30, 1965, that he determines is justified.

If this were done, the Secretary could be authorized to enter into a contract with Menominee Enterprises Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so. Menominee Enterprises, Inc., could proceed immediately to run the mill, test whether the cut can be increased from 22 million to 29 million board feet annually, whether the increased cut can be marketed successfully, and how many Indians properly can be employed in a businesslike operation.

Mr. Chairman, these are all serious considerations which were speculated at the time the termination went into effect and which since have significantly had ups and downs. I think this was good advice then and would be good advice today. The next point:

If there is to be any continuation of Federal financial assistance beyond 1961 we believe that it should be based upon a continuation of the Federal trust during the period of assistance, and not be in the form of Federal subsidy after a termination of the trust.

(2) In order that the proposed new county may be organized and commence to function, the contract between the Secretary and the Menominee Enterprises, Inc. could require the corporation to contract with the county for a payment in lieu of taxes for the period prior to the date of actual transfer of title to the corporation.

These were alternative methods to the drastic solution that went into effect on the 1st of April, 1961, which could have been used at that time, and looking back in hindsight I think were a beneficial effect. Following the preparation of the secretarial task force report on Indian affairs in July of 1961. My name was submitted to the Senate as Commissioner of Indian Affairs and after lengthy hearings and some delay I was confirmed after September of 1961.

I served, I would say, very happily with a few Federal jobs, and I must say, I enjoyed being around the Wisconsin Legislature in 1961 but there is nothing I have done in my life that has given me as much pleasure, as well as satisfaction as being Commissioner of Indian Affairs and I can assure the members of this committee that I would never have left that job voluntarily and did not do so.

The fact of the matter is that the Commissionership is kind of a bank account in which you make withdrawals from good will but never any additional deposits.

[General laughter.]

Mr. NASH. So that the Commissioners are expendable and probably should be, and eventually in 1966 we reached the point where my continued occupation of the office was going to result in the indefinite deferment of programs that I thought were very necessary for Indian affairs, and particularly one which represented a very sound commitment to Indian people in the Southwest, namely, the construction of the vocational school in Albuquerque and that was the straw that broke the camel's back. But I'm glad to say that has been effectuated since.

So, it has been a worthwhile act. And in addition, a very close friend of mine, an Indian person in Wisconsin, Bob Bennett, I opened the way for him to succeed me as Commissioner and I will not pretend I was delighted to do so. I would merely say that since I had to do it I was delighted to make way for him.

Naturally I retained my interest in Menominee affairs, but I think as Commissioner I could not have any official functions in conjunction with a terminated tribe.

The Congress of the United States had exercised its plenary powers in Indian affairs to make legal non-Indians out of Menominees, but it was easy to see that conditions were not auspicious; in 1965 the Appropriations Committee of the House of Representatives asked the Bureau of Indian Affairs for a report on the status of the Menominee Indian Tribe, then 4 years approximately after termination, and such a report was prepared and was submitted by the Bureau of Indian Affairs to the Appropriations Committee of the House.

This report has never, in my opinion, had the amount of public attention that it deserved. It was asked for by the Appropriations Committee and I think that it's only fair to state at this point in history that this committee regarded it as an intrusion on its jurisdiction and asked the Appropriations Committee to receive the report and after that nothing more was heard of it.

It was introduced into the record and may be found in the Congressional Record, but there has never been any generally broadcast distribution of it and I particularly want to state for the record that this report was submitted to the Committee on Appropriations in February, 1965, and I ask permission to introduce it in the record at this point.

Mr. MEEDS. Without objection, so ordered.

[The report referred to follows:]

THE STATUS OF THE TERMINATION OF THE MENOMINEE INDIAN TRIBE

(A Report to the Committee on Appropriations, House of Representatives, by the Bureau of Indian Affairs, Department of the Interior, February 1965)

The House Committee on Appropriations, in its report of March 13, 1964 (88th Congress, 2d Session, House Report No. 7237), requested that the bureau of Indian Affairs "submit a detailed report in connection with the 1966 estimates as to the status of the termination" of the Menominee Indian Tribe of Wisconsin. This report has been prepared in response to that request.

INTRODUCTION

The trust responsibility of the United States toward the Menominee Indian Tribe of Wisconsin was brought to a close April 30, 1961, by the Menominee Termination Act of June 17, 1954 (P. L. 83–399). Such termination was to have become effective not later than December 31, 1956, according to the original enactment. Prospective difficulties the Menominee would face after termination prompted two postponements of the date. In 1959 the Wisconsin Legislature memorialized Congress to repeal or amend the law so as to continue the trust relationship indefinitely, expressing the opinion that termination was seriously premature. This change of policy was not agreed to by the Congress.

Measures to help the tribe to meet its new and extended responsibilities were considered as the termination date approached. These included two bills to amend the Menominee Termination Act on which hearings were held in April 1961 by the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs. One of these would have authorized postponement of termination to a date found by the Secretary of the Interior to be reasonable. The other would have postponed the termination date to 1969 at latest and have authorized the Secretary of the Interior to make loans to the tribe not to exceed $2,500,000 in aggregate amount.

Assistant Secretary Carver, appearing for the Department of the Interior, identified the basic question that made some modification of the Termination Act desirable. In so doing, he also accurately forecast the difficulties that have caused the Appropriations Committee to request the present report.

"The basic premise of termination," Secretary Carver pointed out, "has come to be a question of whether the lumber industry, as presently constituted on the reservation, is big enough to support the Indians."

"Taking this resource in and of itself," he continued, "it is a very attractive operation. But there is a basic difficulty in translating a single industry operation into all the ramifications and complexities of community and government activities. Furthermore, we don't really have any way to make a direct conversion of one sawmill operation, which is customarily carried on as a private proposition, into full support of an American community. We just don't have any background for that."

In light of this, Secretary Carver emphasized, "everyone seems now agreed that given the present state of the lumber business, and given the present developments or lack of developments of the mill, itself, the proceeds of the mill won't reach all of the needs which will follow on termination."

Five alternatives were open, Mr. Carver thought, in meeting the need recognized by "almost everyone interested in the welfare of the Menominees" for congressional modification of the act in one form or another. Among these alternatives, the Department recommended what Mr. Carver termed "phased extension of termination." This was set forth in the Department's report on the pending bill (emphasis added):

1. *Instead of transferring title to all of the tribal property to Menominee Enterprises, Inc., on April 30, 1961, as now required by law, the Secretary might be authorized, if the Congress so desires after hearing from the State and the Indians, to make the transfer at any time prior to April 30, 1965, that*

he determines is justified. If this were done, the Secretary could be authorized to enter into a contract with Menominee Enterprises, Inc., which gives the corporation full control of the tribal assets and full responsibility for conducting the business enterprises of the tribe, subject to the right of the Secretary to resume control if he determines that there is a need for doing so. Menominee Enterprises, Inc., could proceed immediately to run the mill, test whether the cut can be increased from 22 million to 29 million board feet annually, whether the increased cut be marketed successfully, and how many Indians properly can be employed in a business-like operation.

If there is to be any continuation of Federal financial assistance beyond 1961 we believe that it should be based upon a continuation of the Federal trust during the period of assistance, and not be in the form of Federal subsidy after a termination of the trust.

2. In order that the proposed new county may be organized and commence to function, the contract between the Secretary and the Menominee Enterprises, Inc., could require the corporation to contract with the county for a payment in lieu of taxes for the period prior to the date of actual transfer of title to the corporation.

This procedure would allow the Federal Government to retain its basic authority for a transition period of not to exceed 3 years, and to lend a guiding hand if needed. The corporation and the county would be able to assume their responsibilities immediately, however, and start developing the full potentials of the reservation. This department would be in a position to give advice and assistance as needed. *If experience shows that the plan is likely to be unsuccessful, title to the reservation would still be in the Federal Government and no irrevocable decision would have been made.*

The Congress declined to adopt this recommendation choosing instead the alternative of permitting termination to proceed on schedule but providing financial assistance (P. L. 87–432) for a transitional period of five years after April 30 1961 in a total amount of $660,000 for contributions to joint school costs. The law also authorized expenditures of $438,000 by the Public Health Service for construction of sanitation facilities, bringing the total amount of assistance to $1,098,000.

No provision was made for continuing any degree of Federal supervision during the period in which assistance was presumed necessary. No means was made available whereby the Bureau of Indian Affairs would be kept currently informed of developments much less enabled to assist the new county and corporation in any way during the admittedly difficult years of transition.

It is in the light of this policy decision by the Congress, the decision to make termination complete as of April 30, 1961, and to retain no remnant of the former Federal responsibility toward the Menominees or supervision of their affairs, that this review has been undertaken.

MENOMINEE AFFAIRS: CORPORATION AND COUNTY

The experience of the Menominees under termination may be examined first of all in terms of the two entities established by State law as successors to the Menominee Indian Tribe. One of these, a state corporation, was Menominee Enterprises, Inc., to which was conveyed all the tribal land that had comprised the reservation, including the Menominee forest and the sawmill upon which the economic future of the Menominees depended. The other was a new county, Wisconsin's 72d, carved from the two counties in which the reservation had been located and with borders identical to those of the reservation.

Menominee Enterprises, Inc.

Following termination, Menominees whose names were on the final tribal roll were no longer joint owners of Indian trust land, but became bondholders and stockholders in Menominee Enterprises, Inc.

The principal business of the company is the production of lumber and pulpwood and this dependence on the forest has been recognized in provisions both of Federal and of State law. These were drawn with view to safeguarding the prime asset represented by the Menominee forest, through promoting timber harvesting on a sustained-yield basis. Section 7 of the Termination Act was amended (P. L. 84–718 of July 14, 1956) to require "protection of the forest on a sustained yield basis" and Chapter 258 of the Wisconsin Statutes (enacted July 30 1959) provides that a forest required by Federal law to be operated on such basis shall have a fair market value, for tax purposes, equivalent to 40 percent of what it would otherwise be.

Total income of Menominee Enterprises, virtually all derived from sales of lumber and forest products, increased from $2,941,000 in the year ending September 30, 1962, to $3,686,000 in 1964. Net operating income increased from $642,000 in 1962 to $692,000 in 1964. The following table discloses rather clearly that, as an operating business, the company has justified the confidence the Menominees had in it. They may well still regard it, in Secretary Carver's words, as "a very attractive operation."

It must be understood, of course, that the information set forth here has been obtained from the published reports of Menominee Enterprises, Inc., supplemented by explanatory detail supplied by company officials. Lacking the sort of continuing close relationship to the corporation that would have prevailed under the plan recommended by the Department, we can bring to the task no special knowledge or familiarity with the situation that has developed since 1961.

[In Thousands]

	1961 (5 mos.)	1962	1963	9164
Net sales of lumber and forest products	($333)	$2, 802	$3, 365	$3, 596
All other income	(158)	139	153	90
Total income	(991)	2, 941	3, 518	3, 686
Less:				
Costs and expenses	(779)	2, 299	2, 944	2, 994
Net operating income	(212)	642	574	692
Less:				
Property taxes	(165)	306	233	332
Net profit	(48)	336	341	360
Bond interest payable	(164)	392	386	381
Excess of available earnings over bond interest payable [1]	(−116)	−56	−45	−22

Note: Due to rounding, decimals may not add to totals.

[1] Deficit met out of Surplus.

Source: Menominee Enterprises, Inc., annual reports.

Appraisal of Operating Performance.—The corporation's bonds were created to represent the capital value of the annual stumpage payments formerly paid, on a per capita basis, to members of the tribe. Accordingly, they were made income bonds, the annual interest aproximating in amount the former stumpage payments. Before payment of interest on the income bonds, net profit has improved each year since 1961.

Similarly, it must be born in mind that 90 percent or more of the annual taxes levied by Menominee County is paid by the company. These comprise state, county, town, and school district taxes, which in Wisconsin are separate items in the total levied and collected by the county. Property taxes have never amounted to less than 40 percent of net operating income and in 1964 absorbed 48 percent. Net operating income amounted that year, before taxes, to 3.5 percent of the combined total of stockholders' equity and outstanding bonds, all of which had been issued to stockholders.

The first full year of operation was the 12-month period ending September 30, 1962. Since then, although adversely affected by market conditions in 1963 and a 6-week shutdown for major repairs in 1964, sales have expanded with the increase in cut of sawtimber and pulpwood. For many years the timber cut had been limited, under the sustained-yield principle, to 20 million board feet a year. Reappraisal of the forest led in 1961 to revision of the limit to 30 mbf. By 1964 the cut had been increased to 28.9 mbf. and 29 mbf. is expected to be cut in 1965. New attention has been given to production of pulpwood and pulp and by-products output has been more than trebled since 1962. The management reports continuing introduction of more efficient methods and exploration of specialized markets, with prospect of further improvement in sales and net operating income at maximum cutting volume.

The increase of sales and net operating income has been modest but well sustained through the difficult initial years. The result is that, despite the heavy burden of local taxation, the need to draw upon surplus to meet bond interest has declined each year, from $56,000 in 1962 to $22,0000 in 1964. These charges, totaling $239,000 in four years (including $116,000 in 1961), have reduced surplus to $864,000. Despite diminishing deficits since 1962, the prospect for ending this annual drain on surplus must be viewed skeptically in light of recent information that the company's 1965 tax bill, through September 30, is about $395,000, or $63,000 higher than for 1964.

Modernization and Stabilized Employment.—The new corporation promptly entered upon a program of modernization and capital improvement involving a gross sum of about $1.5 million. This was financed largely from the tribal mill's cash balance, to which the corporation had succeeded and which totaled $1,750,000 as of September 30, 1961. The results show in a sharp increase in the asset value (depreciated) of plant and equipment from $498,000 in 1961 to $1,667,000 in 1963 and $1,772,000 in 1964. This increase of nearly $1.3 million in three years has been accompanied by regularization of mill employment, on two shifts at all times. Total employment, including supervisors, is currently about 230 and seasonal variation has been eliminated from employment in the mill itself. Work in the woods—logging of sawtimber and cutting of pulpwood—performed under contract provides additional employment for 65 to 130 according to the season.

Peak employment, about 365, is about 10 percent less than that of 410 reported before termination. Meanwhile the minimum hourly wage paid mill employees increased by 13 percent and the average by 16 percent (from $1.50 to $1.74) between 1961 and 1964. Annual payroll (including contract logging and pulping) has increased to $1,870,000—about 15 percent higher than in 1964 and more than this above pretermination levels.

Capital Requirements.—The relatively satisfactory current operation of the mill must not be permitted to obscure the fact, looking to the future, that the drain of taxes eliminates the possibility of financing further modernization out of income. Moreover, no further capital improvement can be financed out of cash, which has now been drawn down to minimum operating level. In addition to the lumber operation, the corporation is responsible for the management and development of all the land of the county except that occupied by homesites. This, too, calls for capital, which is not easily attracted by potential over a 40-year development period.

Management.—Since its establishment in 1961, Menominee Enterprises, Inc., has experienced its share of administrative difficulties, seriously accentuated by the fact that the stockholders, most of them residents and thus eyewitnesses to operations, have for the most part been as unfamiliar with corporation practices as they were accustomed to those long characteristic of the tribal mill enterprise. These early years have been marked, moreover, by two changes in top management. The fact that so satisfactory an operating record has been achieved despite such initial difficulties suggests that as a business—the impact of property taxes on profit being recognized as wholly abnormal—the company has been basically well managed. The company's third president was secretary-treasurer prior to taking office April 1, 1964. He appears to have both the full support of the board of directors and much better standing than his predecessors among Menominees critical of the new and, as they term it, "outside" management of the "tribal mill."

Menominee County

Upon its creation May 1, 1961, Menominee County, population about 2,500, automatically went to the bottom of the list of Wisconsin counties, in the company of Florence (the only other county with fewer than 5,000 residents) and six others with population of less than 10,000 each. Its assessed valuation for tax purposes was $16.7 million in 1962, which made it at the time the second lowest county in assessed value. Only 14 others of the 72 had valuations below $50 million.

Special Statutory Provisions.—It was full awareness of these and other related basic disadvantages under which the new county would operate that led the Legislature to include in the law creating Menominee County several provisions which, if not without individual precedent, constitute a wholly unique combination. In general, they provide for the combination of county and town boards, for the consolidation of certain town and county officials, and for the inclusion of Menominee County in the court and school systems of adjacent Shawano County.

Through these extraordinary provisions, the State Legislature, recognizing the impossibility of expecting so small and poor a county to establish and support a full structure of county and town government, sought to relieve it of any avoidable burden of costs of government. The law provides, in addition, for review of the new county's experience by the Legislature at the end of 4 years and again at the end of 8 years, so that the adequacy of such provisions as these and, more broadly, the wisdom and feasibility of establishing a separate county may be re-examined as a matter of statutory prescription. The first such review is accordingly due this year, 1965.

Demands on Local Government.—The burden of local government has indeed proved fully as serious as the State Legislature had feared and as the Department of the Interior had indicated as probable. Net schools costs, financed by the school district tax, have mounted steadily and substantially, as Federal assistance has been reduced each succeeding year. Costs of the treatment of tuberculosis patients and those of public assistance under the Social Security Act and related welfare administration have also mounted rapidly. To meet these latter expenses, financed by the county tax, that tax was forced up to its statutory limit (17 mills per dollar of assessed value) in 1963 and 1964 (for the budgets of 1964 and 1965, respectively). A further increase in the school district tax will be necessary next year because Federal assistance will again be reduced, and in fact is scheduled to end with the 1966 payment. The following table summarizes tax and budget developments since 1962:

[In thousands]

	1962	1963	1964 estimate	1965 budget	Change 1962-65
Total taxes collected by Menominee County	$296.6	$316.5	$450.1	$502.6	+$205.9
Cost to Menominee County of Schools	0.8	44.1	114.6	161.0	+160.2
Sanatorium treatment	0.3	12.4	68.8	76.1	+75.8
Public assistance (social security)	14.7	16.2	22.7	40.4	+25.7
Welfare administration	8.4	9.1	12.1	31.0	+22.6
Total	24.3	81.7	218.2	308.5	+284.2
Taxes required for all other purposes	272.4	234.8	231.9	194.1	−78.3

Note: Due to rounding, decimals may not add to totals.

Source: Wisconsin Department of Public Welfare and Menominee County.

The change in the combined tax levy of Menominee County (State, county, town, and school district taxes) between 1962 and 1965 is $206 million. Of this total, 78 percent is accounted for by the $160,000 increase in the school district tax. Of this $160,000, however, only $28,000 is due to the actual increase in the costs of the school district; the balance, of $132,000 (64 percent of the total tax increase), has resulted from the reduction of Federal assistance, from $220,000 in 1962 to $88,000 in 1965.

The second largest increase is that of $76,000 in the cost of sanatorium treatment, which has resulted from a high incidence of tuberculosis. The increase in the cost of public assistance is concentrated in Aid to Families with Dependent Children, which increased by $23,800 between 1962 and 1965.

The importance of the continuing reduction in Federal assistance may be illustrated by the fact that if there were no such payments in 1965, additional taxes of $88,000 would be required. This would add 15.5 percent to the total tax bill and would bring the total tax rate (all four taxes combined) to approximately 35 mills, more than double the statutory limit on the county tax itself. Current comparisons are not available, but last year the average combined rate for the entire state was 27.32 mills, as compared with the rate of 29.77 mills levied by Menominee County for 1965.

State Assistance.—Under Wisconsin law, State aids reduce the cost to the counties of a number of programs that the counties administer. There are also taxes that the State collects, but shares with the counties according to statutory formula. The budget of Menominee County, shown in summary form in the table above, has been presented in net terms, after receipt of such State contributions. In addition to these statutory contributions to meeting the cost of programs administered by the county, two grants were received by Menominee County in 1964. The first of these, in the amount of $17,525, was made under a provision of the statutes (Sec. 49.39) authorizing the State also to pay the county's share of welfare costs in cases where the county is unable to do so. When, in 1962, Menominee County raised its county tax to the statutory limit, the way was opened to apply for this form of additional State assistance to cover welfare items totaling $34,838.

The other grant was made under a special if not unprecedented appropriation by the Legislature. Amounting to $80,000, this grant was justified in terms of the extraordinary level of tuberculosis treatment required for Menominee County residents. Its payment had the immediate effect, however, of increasing the balance in the general fund, in light of which the Department of Public Welfare found itself obliged to withhold payment of welfare costs beyond the $17,525 already paid.

The general fund is the central one used by Wisconsin counties in their financing of local government. The balance in the fund usually is represented largely by cash and fluctuates with the ebb and flow of receipts and expenditures. During 1964, Menominee County's general fund balance increased to a total of $120,000, or somewhat more (the audit is not yet completed); this was equivalent to 4 months' requirements or so (school costs being funded separately). In light of this fact, the Department of Public Welfare recently denied the county's request for a grant of $76,000 under Sec. 49.39 for the 1965 budget. To fund 1965 requirements, $99,000 has been needed in addition to the maximum taxes that can be levied under the statutory limit of 17 mills. This amount has been appropriated from the general fund; thus, the balance is expected to be reduced to an acceptably modest level by the end of 1965.

A third measure of State assistance vastly overshadows these two grants, but it is one extended to individual Menominees, not to the county. This is the unprecedented special fund of $1 million for direct welfare grants and loans by the State itself, which is discussed in the following section.

Urgent Need of Extraordinary Measures.—Two facts dominate the county's immediate financial outlook. One is the fact that $99,000 of 1965 requirements is being financed outside the county tax limit, through drawing the general fund balance down to an operating minimum. The other is the fact of a final reduction of $44,000 in Federal assistance. In combination, these spell additional requirements of about $140,000 as a minimum to be expected in 1966, on top of a tax increase of $52,000 in 1965. Nearly $100,000 of the 1966 increase would have to be financed through the general fund but outside the statutory limit of the county tax. Only part of this amount will represent welfare costs. Thus, even assuming favorable action by the Department of Public Welfare on the county's next application under Sec. 49.39, it is apparent that other extraordinary measures will be needed to avert a result disastrous to both Menominee County and Menominee Enterprises.

Corporation and County Experience

This section, dealing with the administration of Menominee affairs, has highlighted the facts about an industrial enterprise that is achieving steady if modest success, quite in line with early expectations, although gravely handicapped with respect to future growth. It has described a county that has experienced markedly rising demands for the services formerly provided by the Federal Government, entailing difficulties of precisely the sort foreseen in 1961.

These are demands that have brought the county to budgets already exceeding its statutory taxing capacity. They have imposed a tax burden upon the business corporation that, without special relief, will become intolerable next year.

Of the total increase in taxation since 1962, moreover, 64 percent has resulted directly from the need to replace Federal assistance in meeting county school costs, which is being reduced $44,000 each year. One could hardly imagine a set of consequences that more clearly confirms the un-wisdom of saddling full responsibility for local governmental services upon a small and poor community almost entirely dependent upon a single industry of modest scale and profitability.

THE MENOMINEE PEOPLE SINCE TERMINATION

We turn now from the business and governmental machinery that came into operation May 1, 1961, to serve the needs of the Menominees, and consider instead what their situation is nearly four years after termination.

The term, "pockets of poverty," has come into general use only since 1961. It is trenchantly and accurately descriptive of a sorry phenomenon of modern American life. Menominee County is a "pocket of poverty." It was such a pocket prior to 1961, it has continued to be a pocket of poverty these past 4 years, and unless very substantial assistance is provided it has no prospect of becoming anything better in the foreseeable future.

In July 1959 the Wisconsin Legislature memorialized Congress to postpone termination "until such time as the Menominee Indian Tribe has achieved a status comparable and equal to the average citizen of the environs in which they live." It was recognition that the Menominees were far below such equality with their neighbors in the state that underlay both the reluctance of the Legislature to accept termination and the special provisions that it incorporated in the law creating the new county.

Smallest and Poorest County

Menominee County has already been identified as having the smallest population and the second lowest property value of any county in the State. It is also at or near the bottom of the list in terms of average income, of housing, of education, and of sanitation and health. In terms of unemployment and dependence on public assistance its people are at the top of the list.

Low Income.—Median income in 1959 of Indians living in the Menominee area was reported by the 1960 Census as "less than $1,000." For none of Wisconsin's 71 counties, including both Oconto and Shawano, within whose boundaries the reservation lay, was the comparable figure as low as $2,000. Median family income for the State was reported as $5,926 for 1959. The figure for the subdivisions now comprising Menominee County was $2,638, less than half the State average.

In 1964, a health survey conducted by the State Medical Society included 382 employees of Menominee Enterprises and 38 of Menominee County (virtually complete coverage in each case). This total of 420 was about 60 percent of the county labor force and included those with highest incomes. Average income of full-time employees was $3,760 at the company and $3,700 in county employment. Part-time corporation employees averaged about $1,100. Average income for all 420 employees was $2,677, a figure that suggests no significant improvement over the 1959 median family income of $2,638 for the total county population. Median family income falling below $3,000—and even further below a level reflecting the needs of the large families that are characteristic of Menominee County—means that more than half the families suffer deprivation and impoverishment.

High Unemployment.—Through the period since 1961 unemployment has been very serious, running 3 and 4 times as high, in percentage terms, as in the State as a whole. In 1963 the county rate was 13.6 percent when the State average was 4.0. In 1964 the corresponding rates were 18.1 and 3.7 percent.

Large Families.—The State Medical Society's survey included a total of 2,536 individuals in the 496 families that were identified and interviewed. Large families were found to be the rule, reflecting the birth rate of [illegible]3.4, far above the State average of 25. Total children reported, all ages, were 2,491, an average of 5 per family. Of the 496 families, more than half (311) had 4 or more children and 50 had 10 or more children each. (Plainly, 2,491 children in a population of 2,526 means double counting, children in one family being parents in others.)

The population was found to have an unusually high proportion (57.4 percent) under the age of 20 and a low proportion aged 65 and over (4.6 percent). The corresponding State proportions in 1960 were 40 and 10 percent, respectively. Treating the youngest and oldest members of the population as dependent upon those aged 20 through 64, this indicates a dependency ratio of 1.6-to-1 rather than the 1-to-1 ratio characteristic of the State as a whole.

Substandard Education.—The 1960 Census reported the median years of school completed by the Menominee area Indian population, aged 14 and older, as 8.3 years. The corresponding median for the rural nonfarm population of Wisconsin was 9.9 years. This difference of 1.6 years is equivalent to 1 of 3 semesters for everyone, or of more than 7 semesters (bringing the average up through high school) for nearly half of the total population.

Among Menominee residents 25 years of age and older, only one-fourth had attended school beyond the eighth grade; among all nonfarm rural residents of Wisconsin, this proportion was a full one-half. The state of education of the Menominee County population accordingly constitutes a serious handicap to individual and community progress.

The facts covering dropouts do not encourage hope of future improvement. Of 33 pupils enrolled as high school freshmen in 1950, the health survey found that 17 dropped out before graduation, a dropout rate of 51.5 percent. The State Department of Administration reports a finding that, of 80 Menominee students who enrolled as freshmen in 1960, 37 dropped out before 1964 graduation—a rate of 46 percent. Dropout rates at this level must be regarded as presenting a serious educational problem.

Critically Substandard Housing.—Housing, the State Medical Society found to be extremely poor, "one of the critical problems in the county," characterized by

> half again as many people per household as the State average,
> average value of houses in one of the two villages only $4,000,
> less than one-third of all units in the county in sound condition,
> one-third in deteriorated condition,
> and one-third dilapidated.

Poor Health.—The central focus of the State Medical Society's survey was, of course, the health conditions in the county. The findings with respect to major health illnesses were summarized as follows:

> It was found that diabetes, tuberculosis and heart disease occur most frequently. An intensive tuberculosis case finding program has resulted in bringing many patients to treatment at an early stage of the disease. Treatment facilities and services are highly adequate. A frequent problem related to the high incidence of diabetes is the relatively high proportion of patients who are not under regular medical supervision. A more intensive type of supervision and instruction of patients in the home seem indicated.
>
> With respect to sanitation: The sanitation in the county is inadequate, with only about one-half the homes having running water and indoor toilets. Many homes do not have wells on the premises.
>
> Alcoholism: Excessive drinking constitutes one of the most destructive elements in family life. Workers who are very familiar with the families estimate that there are 113 problem drinkers among the 496 families in the county. In 11 of the families more than one member has a drinking problem. Twenty-one individuals have been committed to an institution because of drinking; 12 of these have been committed repeatedly. A distressing number of the heavy drinking occurs among mothers which makes the problem especially devastating. There is no organized program in the county to combat or alleviate this problem.
>
> Infant health: There is a high birth rate, almost double for that of the state and a proportionately high infant death rate combined with low economic status and many families. Since pneumonia, upper respiratory infections and gastrointestinal conditions were among the frequent causes, it may be inferred that unfavorable environmental conditions were a contributing factor.

Because it is so sparsely populated, it is doubtful whether Menominee County could justify establishment there of a hospital meeting modern standards, quite apart from the matter of financial ability to support one. Prior to termination there had been a hospital at Keshena, supported by the tribe and operated by a religious order. It was not a facility of the Division of Indian Health, Public Health Service, and its closing was not part of the withdrawal of Federal service. The circumstances were that, with the advent of State supervision, the hospital was found to be far below public health standards. Its closing, coincidentally with termination of the Federal trust, has understandably caused this loss to be included, in complaints about the effects of termination, with that of the services formerly provided by the Bureau of Indian Affairs. The Medical Society, reporting on this aspect of the situation, had this to say:

> A rather drastic change in the availability of hospital and medical care occurred when the tribally operated hospital was closed and medical practice in the county was discontinued. At present, medical and hospital care is secured in neighboring communities: Shawano, Gresham, Antigo and Green Bay. A considerable number of patients are cared for at University hospitals and the veterans facilities.
>
> Questions about difficulty in obtaining medical care often gave rise to laments about the closing of the Keshena Hospital. In exploring this feeling it appeared that the hospital represented to many people a sort of security and status symbol and this, more than serious difficulty experienced in obtaining medical care, caused their regrets. These people had been able to go to the hospital for aspirin, cough medicine, bandages, etc., when they needed them. In wishing for their own "free" hospital these people often do not understand that the cost to the county and to them in taxes of operating a hospital for 2,500 people would be prohibitive.

Concerning the matter of financing medical care, the report observed:

As might be expected, the most pressing problems encountered in regard to hospital and medical care has to do with finances. At the time of the survey, 71 out of 496 families reported that they were receiving welfare and 69 families received social security payments. Of the families surveyed, 201 were covered by some type of hospital and medical insurance. The two types of insurance most frequently reported were provided by either Menominee Enterprises, Inc., or the County ~~Employees~~ Employees Insurance. The insurance programs do not include medical care outside of the hospital, medicines, and other costs frequently associated with illness.

Dependence on Welfare.—The people of Menominee County receive public assistance almost entirely under the Social Security Act, through the county welfare department. General assistance, provided by the Town of Menominee, has continued at less than $20,000 a year throughout the period. Public assistance, as already noted, has increased substantially in the county budget year by year. In July 1964 analysis disclosed that 14 percent of the population of Menominee County was receiving public assistance, in contrast to an average of 2.6 percent for the State as a whole. If account is taken of the extra welfare grants and the loans for welfare purposes made by the State under special legislation (discussed below), the proportion of the Menominee County population receiving public assistance last July is increased to 45 percent, a situation without parallel in the State. Additional welfare grants and loans have been made since July which have increased this percentage an undetermined further amount.

Bonds Pledged to Meet Welfare Needs

The foregoing description of economic and social conditions in Menominee County is by no means exhaustive. It does make clear, however, that the Menominee people are living under conditions of extreme poverty. The starkness of these conditions is further illustrated by the extent to which Menominees have been forced into pledging their income bonds in order to meet urgent cash requirements.

In December 1963, at the end of which month the income bonds of Menominee Enterprises, Inc., became negotiable, the Wisconsin Legislature established a special fund of $1,000,000, to be administered by the State Department of Public Welfare, for benefit of the Menominees. Grants and loans for welfare purposes may be made from this fund on the basis of pledged Menominee income bonds. These are the payments referred to above in connection with the high percentage of the county population receiving public assistance of one form or another. As of the end of 1964, this fund was drawn down to less than $200,000, with early exhaustion in prospect.

The Menominee income bonds have par value of $3,000, and the outstanding amount is in excess of $9½ million. Menominee Enterprises, Inc., has first option to buy any that may be offered for sale. The cash position of the company has precluded any purchase since the bonds became negotiable

January 1, 1964. The State Investment Board is empowered to exercise second option, but has decided not to purchase at more than 70 percent of par value, or $2,300. As security for welfare grants or loans, however, the bonds are accepted at par value.

This means, of course, that the neediest Menominees have the privilege of exhausting the full face value of their bonds in meeting extraordinary welfare requirements, while those who are less pressed may retain theirs as a modest source of income. A typical family may have a combined income of $720 or $840 a year from bonds issued to tribal members, but it is families of this size and larger that are most likely to need additional cash and thus to be forced into pledging their bonds.

Early in 1964 it was charged that in administering the newly established fund the State Department of Public Welfare was becoming a "collection agency for medical expenses and old debts." In the ensuing discussion, the deputy director of that department was quoted in the press as saying:

> A million dollars isn't even going to scratch the surface. If we wanted to build proper housing and do all the other things we should do for these people, we would need 10 to 20 million dollars.

The assemblymen from the district, observing that the program did not permit bonds to be pledged for loans to construct homes, added: "How can you ever get ahead of the health problems when you have nine kids and their parents living in two or three rooms?"

Termination and Public Opinion

The effect of these circumstances and the impact of developments since 1961 on the people of the county cannot be simply characterized. Some Menominees seem to be as demoralized as any poverty-stricken people anywhere. Others, far from demoralized, are highly and vocally indignant, leveling criticism and accusations at all public authorities, Federal, State, and local, and at the management of Menominee Enterprises. There is widespread misunderstanding of the nature of corporate ownership; the Menominee view of land ownership is as tribal today as it ever was before termination. Consequently, protests are heard against the need to give up income bonds in payment for homesites that are regarded as already the family's share of tribal land.

Those who are fortunate enough to have steady employment with the company or the county are naturally more optimistic about the future than many others. Prior to termination, before the business functions of the tribe were separated from its service functions, there was a tendency to maximize mill employment rather than profit. Consequently, there is evidence of bitterness among Menominees who, before termination, were on the payroll but since then have been found unqualified for employment. The officials of the company and other leaders close to its operations maintain their basic confidence in the long-term potential but are soberly realistic about short-term hazards.

A sizable number of Menominees persist in the view not only that termination was unwise, but that it was forced upon the tribe without full discussion or understanding, and that it constitutes a gross violation of treaty rights. The highly vocal exponents of these views are few in number but such opinions may be shared by a substantial number who do not attend public discussions or who remain silent. A related viewpoint is that termination may have been technically legal, but that the Federal Government cut off its services too abruptly and before all appropriate Federal investment in community facilities had been completed.

In April 1964 a petition for repeal of the Menominee Termination Act was addressed to the Congress carrying signatures of 788 persons identifying themselves as Menominee Indians. A duplicate set was sent to the President and receipt was acknowledged by the Bureau of Indian Affairs. The signatures numbered more than one-fifth the total on the final tribal membership roll.

Strong protests against termination and the way it came about were voiced at meetings held by direction of the Governor in Madison on July 27 and August 6, 1964, and again at hearings conducted by the State Department of Administration in Menominee County during the last week in September. At the Governor's invitation, Bureau representatives attended these meetings and hearings as observers.

Proposals for Action

At the July 27 meeting, the Governor announced a Menominee Action Program under which each of 13 departments and agencies of the State was assigned responsibility in a general attack on "the severe economic, educational, and health problems of Menominee County." This program represented a broad move by the executive branch to deal with the situation, the seriousness of which had been acknowledged by the Legislature in its action in December 1963 establishing the million-dollar Menominee fund.

By mid-September the State agencies were able to report a very impressive list of actions taken or planned. Many of the more significant steps would require additional funds, and these were included in a request submitted by the State on behalf of Menominee County to the Office of Economic Opportunity, totaling $1,600,000.

Education.—The proposals of the Department of Public Instruction were numerous and varied, indicative of the very great need for improvement in education in Menominee County. These included measures to be undertaken jointly with the Department of Public Welfare in dealing with the dropout problem. Reportedly, these plans have been reworked and perfected since September, with active participation of Shawano County school officials, the University of Wisconsin, and the Wisconsin State University (Stevens Point).

Industrial Development.—A disappointing aspect of the Governor's program lay in the finding by the Department of Resource Development with respect to the prospect for industrial and commercial development in the county apart from the Menominee enterprise itself. The conclusion reached was that such development was most unlikely because of a number of factors:

1. The county lacks a minimum of services to attract industry and commercial enterprises.
2. It is very doubtful if the communities in the county can support even the minimum of commercial enterprises.
3. There are no "good" housing areas where industry or business management could live without residing outside of the county.
4. Capital from non-Government sources is not available.
5. Although there is much evidence to the contrary, the area does not have a good worker dependability reputation. Such a reputation, although unfounded, must be recognized since it tends to adversely effect industrialization.
6. There are not many, if any, available buildings for commercial or industrial development.
7. The established trading centers surrounding the county are close enough to attract the county residents and unless the communities in the county develop a diversity of services and a local buying attitude the services will have difficulty surviving.
8. Local leadership for commercial and industrial development is lacking in enough experience and depth.

Development of Recreation.—Additional industry in the county is probably a questionable prospect under any circumstances, but commercial and recreational development, including the lease-sale of sites for summer and year-round homes, has from the outset been envisaged as an important means of supplementing earnings from the mill, increasing the tax base, and lessening dependence on Menominee Enterprises as virtually sole taxpayer. Through September 1964 a total of 75 lease-purchase agreements were reported, with about 20 new homes in place at average value of $12,500. As a part of such a program, the company has responded with a counter offer to the proposal by the State Department of Conservation to establish a State park in Menominee County.

Under the company's proposed modification, the park would not embrace all the county except for home and business sites, but would instead be limited to about 2,200 of the county's 234,000 acres. The area described is believed by the company to have a potential developed value of nearly $25 million. Such development is regarded as a 40-year process, however. For use as a State park, the company has proposed a 40-year lease-purchase price of $6.5 million.

Recurrent proposals that part or all of Menominee County be made a State park have aroused much vocal opposition. It became apparent at the hearings in September 1964 that there is deep minority opposition to any intrusion by "outsiders" into the "reservation," as such Menominees continue to call the county. According to the company, the Conservation Department has given assurances that it will not use its power of condemnation to acquire Menominee land for park purposes.

The company's proposal would entail establishment of a trust fund into which annual payments under the lease-purchase agreement would be paid, such fund to be used to retire bonds and stock of Menominee Enterprises, Inc. (including possible repurchase of bonds now encumbered by the Department of Public Welfare) and to pay interest and dividends. The park itself, in the company's view, could "complement other development necessary in Menominee County, for the benefit of all concerned."

The foregoing review of developments in Menominee County since termination of the Federal trust in 1961 makes clear how ill-advised were the terms on which the Menominees were deprived of Federal services and supervision. The need for remedial action, by the State or Federal government, or both, cannot be denied in light of the stark facts concerning the county, with its mounting budget, and the corporation, with its struggle to finance most of that budget and yet keep its head above water.

The Menominee Termination Act is explicit that, upon termination,

> members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction. (Sec. 10)

In light of this language, the Bureau, meaning the B.I.A., has had no programs in operation in Menominee County since May 1, 1961, and has no authorization for appropriations to be used in that county. This is not well understood among the Menominees, many of whom are ready to take any evidence of official interest in their situation as an indication that the Bureau is in stand-by status under a Federal trust responsibility that is only temporarily suspended. This became evident in the course of the meetings and hearings where the Bureau was represented by observers.

The Department of the Interior sees no alternative to combined State and Federal support of the county and its people, who are in desperate circumstances. Continuation of the present trend will threaten the existence of the corporation and lead to decline of county services, to the detriment of the Menominee people and their non-Indian neighbors in Wisconsin. To stand idly by and watch the further growth of such a pocket of poverty is unthinkable.

The State of Wisconsin has been generous in its aid to Menominee County. Federal aid was small and was established on a declining basis; it is now approaching the vanishing point. That was 1965. In our opinion, Federal assistance should be re-established, in such categories and such amounts as are commensurate with Menominee County's needs. There are two methods by which this may be done.

Grants-in-aid may be provided through new authorizations and appropriations to the Department of the Interior for the use and benefits of Menominee County. If this method should be followed, it would require amendment of the Menominee Termination Act or it would constitute a precedent-setting departure from the principle of trusteeship, which has hitherto governed the conduct of Indian affairs.

The responsibility for initiating action to determine what measures are required to meet the urgent Menominee situation is shared by officials of the State of Wisconsin and Menominee County and officers of Menominee Enterprises, Inc. In light of the facts the Bureau's review has disclosed, we are confident that full examination by appropriate legislative committees will amply corroborate these general conclusions and permit appropriate and adequate measures to be drafted for enactment into law.

Mr. Nash. It's a 37, 38 page report. I will not attempt to read from it. I will summarize very quickly the purport of it, Mr. Chairman.

The essential meaning of it is that in the 4 years following termination the problems of poverty on the reservation as measured by health, income, employment, housing, had declined and the report makes the further observation that there was a very difficult relationship between the Enterprise and the county, in which each tended to devour the other, namely that since there was only one taxpayer of size in the county, as the human needs surfaced, standards were raised, efficiency in the mill tended to increase these problems, the problems cost more.

There was a continuous tendency on the part of the county then, if there were cash accumulated in Menominee Enterprises, to impound it by the simple device of raising taxes. Now, I'm not suggesting that this was capricious or that there was any malice in it, but this is the relationship foreseen in 1961 in the report of the Department of Interior just prior to the Termination Act.

If I may just read the conclusion so that the people here may know what this report said, in general it says on page 37 of the mimeographed report:

> The foregoing review of developments in Menominee County since termination of the Federal trust in 1961 makes clear how ill-advised were the terms on which the Menominees were deprived of Federal services and supervision. The need for remedial action, by the States or Federal government, or both, cannot be denied in light of the stark facts concerning the County, with its mounting budget, and the corporation, with its struggle to finance most of that budget and yet keep its head above water.
>
> The Menominee Termination Act is explicit that, upon termination,
>
> "Members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction (Sec. 10)"

In light of this language, the Bureau meaning the Bureau of Indian Affairs, has had no programs in operation in Menominee County since May 1, 1961, and has no authorization for appropriations to be used in that county. This is not well understood among the Menominees, many of whom are ready to take any evidence of official interest in their situation as an indication that the Bureau is in stand-by status under a Federal trust responsibility that is only temporarily suspended. This became evident in the course of the meetings and hearings where the Bureau was represented by observers.

> The Department of the Interior sees no alternative to combined State and Federal support of the county and its people, who are in desperate circumstances. Continuation of the present trend will threaten the existence of the corporation and lead to decline of county services, to the detriment of the Menominee people and their non-Indian neighbors in Wisconsin. To stand idly by and watch the further growth of such a pocket of poverty is unthinkable.
>
> The State of Wisconsin has been generous in its aid to Menominee County. Federal aid was small and was established on a declining basis; it is now approaching the vanishing point.

That was 1965.

> In our opinion, Federal assistance should be re-established, in such categories and such amounts as are commensurate with Menominee County's needs. There are two methods by which this may be done.
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> Grants-in-aid may be provided through new authorizations and appropriations to the Department of the Interior for the use and benefits of Menominee

> County. If this method should be followed, it would require amendment of the Menominee Termination Act or it would constitute a precedent-setting departure from the principle of trusteeship, which has hitherto governed the conduct of Indian affairs.
>
> The responsibility for initiating action to determine what measures are required to meet the urgent Menominee situation is shared by officials of the State of Wisconsin and Menominee County and officers of Menominee Enterprises, Inc. In light of the facts the Bureau's review has disclosed, we are confident that full examination by appropriate legislative committees will amply corroborate these general conclusions and permit appropriate and adequate measures to be drafted for enactment into law.

And then the report continues with an offer from the Department of Interior. The reason I stress this particular point, Mr. Chairman, is that this is now nearly 10 years ago and nearly 15 years since the Department made alternative recommendations before the final step was taken.

We now have before us a bill which would restore Indian status, both as individuals and as tribes. There may be some question in some individuals' minds as to whether this ought to be done at this point, so many years after termination was proceeded.

I think I would reverse that thinking and say that it ought not to have been done in the beginning, that the signs of disaster and difficulty were present, that as we went along in early years those signs began to appear as predicted and that this is probably even more true today.

Consequently, I believe that the present proposal to restore the act without going into the question of how one goes about putting, disassembling and reassembling the pieces that represented the final termination plan: if we worry too much about those details we will never do anything, and that a necessary first step is the restoration of the present status and Indian status, after which there are quite a few alternatives for proceeding.

I point out that the bill as drafted, the one that I have in front of me, does not go into these matters as the committee well knows. And it may turn out during the legislative process that that will need to be done.

If it is not done, or if it is considered and the committee makes alternative recommendations or develops a different legislative history, I have no doubt but what the contracting procedure called for as far back as 1961, even before the termination became final, offers an alternative solution.

Now, there are two things that I would exercise a word of caution about. One section of the bill specifically separates the proposed restored tribe from the provisions of the act of 1934. In view of the sentiment that was expressed by the Menominees who voted once against accepting the powers of that act, I can understand why that would be wanted.

I dare say there is still some feeling about it among the Menominees. They are well able to speak for themselves and I wouldn't presume to read their minds on that.

However, I must point out for the record that if those powers are specifically disclaimed as this bill provides for, and then no others are provided, we leave open the question as to exactly what contracting powers the restored tribe would have under general authority which has already been challenged in some opinions of the Solicitor's Office of the Department of Interior.

I've been out of office now for 7 years. I don't have access to the information or the technical advice that I had as Commissioner. I therefore don't pass judgment on any of this; I just merely point out that I'm sure upon passage of the bill somebody is going to be called on to provide funds.

If funds are not provided we will have accomplished very little except to preserve the assets from further dissipation, but I do not think we have the viable situation as to between the forest and the mill and the county with the skill of today's human service needs.

Therefore, I urge that this be done and I urge also that consideration be given promptly to the question of how the needed further assistance under trust status, which I hope will be done promptly, is going to be carried out.

That completes all I have to say.

Mr. Meeds. Thank you very, very much, Mr. Nash.

I would like to explore that last suggestion with you just a little.

First, the Chair would like to acknowledge the presence of Representative Harold Froehlich. We are glad to have you with us here this morning.

I would like to explore that last concept with you.

There have been fears expressed, and I think, legitimately so, that needed county services would not be forthcoming if trust status was restored to the land and there was no tax base to support those services.

Wouldn't you agree with me, Mr. Commissioner, that it is possible that the tribe, through the B.I.A., could contract to provide those services?

Mr. Nash. Entirely, Mr. Chairman.

That was one of the proposals of Secretary Carver in 1961 and a contract in lieu of taxes would, in my judgment, be as feasible today as it was in 1961. The question, I think, would come simply as to whether funds are available without subvention, and here again I'd adhere to Secretary Carver's principle that the aid ought to be forthcoming. It represents an unfulfilled responsibility, but that if it's going to be forthcoming it should be done with the intention of the trust.

Mr. Meeds. I certainly appreciate that suggestion, because this continues to be a perplexing question to me, but I think that your suggestion would be enlarged and analyzed and would perhaps furnish some answer to that question.

I appreciate your testimony once again.

The gentleman from New Mexico.

Mr. Lujan. Thank you, Mr. Chairman.

As you know, Mr. Nash, I am rather new in the whole business of Indian affairs and I would like to take this opportunity to get the benefit of your experience to some of the things generally that have been going through my mind and that I don't quite know how to resolve.

Let me ask you, had the Menominee Enterprises been a successful enterprise to where there would have been no need to sell the land, to where it would have provided plenty of employment on the reservation, to where those profits could have continued to provide most of the social services as they used to, the health, the education, those services that are needed by the Menominees, would we today be talking about restoration?

Mr. NASH. That's a double barreled question, Congressman. Let me take it one barrel at a time.

First, as to the hypothetical question, if it had been a more economically strong situation, and then just stop there. It was not, sir, in 1961 and in the nature of things that I believe was evidenced by Secretary Carver's testimony in 1961, was unlikely ever to be the case. That is, the Menominee Enterprises, Inc., with assets of about $36 million in the forest and the mill, in 1961 did not present a sufficiently large group of assets, whether you're speaking corporately or in terms of the municipal or county base to provide a countywide service.

This was recognized by the Wisconsin Legislature when it arranged to provided to arrange others for sharing the services with the adjoining counties, in other words, the county was not of a magnitude, economic or political, sufficient to provide the full range of county services so this was planned for on a shared basis.

Additionally, however, if one asked them the simple question that, if you have large programs of human service as all modern countries do and if they are growing, then what can the proceeds from $36 million do even assuming the most favorable of economic circumstances, and there were a number of background facts which drew on those assets even more right at the beginning. For example, because the Federal Government does not as a rule, in fact it never has, recognized the jurisdiction of other units of government from State and local governments in matters of regulation, for example with respect to utilities or sewer and sanitary connections, an effort was made by the Bureau of Indian Affairs to provide this kind of service to the tribe but without having a full range of separate appropriations from the Congress for that purpose.

The reason why the utility system was inadequate and why the State of Wisconsin when it assumed jurisdiction required that monies be expended to bring the services up to date was that they had not been provided by the Bureau pursuant to an appropriation from the Congress that recognized the standards of the State of Wisconsin.

Mr. LUJAN. Well, your answer has gone way, way beyond what I really intended in the question.

Are there reasons, other than keeping the land intact and the infusion of Federal funds into the Menominee reservation, are there reasons other than those two for restoration?

Mr. NASH. Yes, sir.

Mr. LUJAN. What are they?

Mr. NASH. One reason is the moral reason. The trust was not stated in the agreement that was made when the land was purchased and Indian title was extinguished. They were the trust titled by the Federal Government.

It was not said that this will run for a brief period or until we are through or until we are ready to throw you out; it said——

Mr. Lujan. So it's a treaty obligation.

Mr. Nash. It is an obligation.

The other thing, and I'll be very much briefer, the man-land relationship is a very essential one. This is one that the Menominees understand. It is a true relationship in this community. It is true in most Indian communities. It is not true in other parts of the country but it ought to be, and therefore the restoration of the trust permits the continuation of a sound ecological balance between man and land in this place and therefore I think it ought to be done for that reason.

Mr. Lujan. And has that balance been destroyed by the selling off of some of the lands?

Mr. Nash. Not completely destroyed, but obviously the land is still there, but the history of those reservations that became checkerboarded as, for example, Pine Ridge and Wounded Knee, the economic situation there has a long history and a bad one, but it was made very much worse by the application of the general allotment act.

The Menominee reservation was one of those which, by the wisdom of its own members and good political and historical luck, was not checkerboarded; but the creation of the lakes, a plan which I was familiar with and which follows what some of the western reservations, such as the White Mountain Apache have done, was done here for whatever reasons—and I don't pretend to be familiar with them all or pass judgment on them—but I'm merely saying that when the title to portions of the lands is extended to non-Indian owners in such a way that eventually fee title will pass to them, you have the beginning of checkerboarding and that is the beginning of the end of tribal resistance which I personally deplore.

Mr. Lujan. Thank you.

Mr. Meeds. Thank you very much for a very incisive and very helpful testimony to the committee. Also, it is very good to see you again, sir.

Mr. Nash. Very good to see you, Mr. Chairman.

Mr. Meeds. Our next witness is Dr. Gary Orfield, who has been involved for some time in studying the question of termination and restoration. I think he did his Master's thesis on the termination of the Menominees.

Dr. Orfield, we're very happy to have you here this morning.

Please proceed as you see fit.

STATEMENT OF DR. GARY ORFIELD

Dr. Orfield. Thank you very much, Mr. Chairman, Congressman Lujan, Congressman Froehlich, my name is Gary Orfield and I was a teacher of political science at Princeton University and I'm spending a year on leave with the U.S. Commission on Civil Rights.

I would like to make eight basic points in my testimony this morning, emphasizing some more than others.

The first point would be that Congress and the Bureau of Indian Affairs forced the Menominees into termination against their will.

The second would be that Congress and the Bureau of Indian Affairs acted without any serious effort to determine the factual impact of termination. The Menominees had no basis at the time the decision was made to make a reasonable decision.

The third point I would like to make is that Congress and the Bureau of Indian Affairs persisted in forcing termination in 1961 in the face of: (a) Conclusive evidence that it wouldn't work economically; (b) repudiation of the policy by President Eisenhower and President Kennedy; and (c) strong opposition from the tribe. The fourth point I want to make is that the policy has caused irreparable damage to the Menominee people in the following ways: through loss of jobs, loss of land, loss of identity, loss of rights of Federal Indian services.

The fifth point would be that unless the policy is reversed it seems apparent that the remaining assets of the tribe are in very severe jeopardy, and realization of economic potential in this community is impossible.

The sixth would be that the Menominees are now the last remaining intact tribe which is suffering from a policy which at this point has been repudiated by four successive Presidents, both national parties, there remaining only active victory for this policy was to settle the chance of coming out from under its effects. Justice and common decency, at this point, I think, requires public admission that the mistake was made and a public commitment to reverse this process and repair the damage to the extent that it can still be repaired.

The seventh point is that this bill seems to me to be a modest step in this direction and a step that I can't imagine any serious objection to. It's not a whole solution of course, but it seems to me to be a first essential, common-sense step.

The last point I want to make is, the Menominee termination experience goes far beyond the Menominee situation. It has poisoned the whole atmosphere in Indian affairs in the country, and it is desperately important, I think, that it be cleared up so we can move forward to new issues.

This has been a failure of Indian policy all over the United States. It is a basis of deep fears that are common wherever you travel in Indian country.

Restoration of the Menominees, I think, would be the best possible indication that this threat is now finally removed and that we can get on to other issues in Indian policy.

During the last 25 years the Federal Government has developed a policy which has brought the Menominee tribe to the verge of final destruction and has evoked deep fears in tribes all over the United States. Although the termination has been repudiated by four administrations, the chief victims of that policy, the Menominee people, still suffer great damage from its impact.

I hope that these hearings will mark the beginning of a new period of justice for Menominees. I urge the committee to rapidly approve the legislation, to promptly restore the Federal rights of the Indian people of this tribe.

My testimony today will be based on rather extensive research that I have done on this tribe's termination history. Several years ago I spent the better part of a year studying this case from every angle I could study it. I have studied all the congressional hearings on the Menominees. I have read through some 18 filing cabinets of the Bureau of Indian Affairs documents from the agency level to the area office level, and I think I've seen everything that's been written by any official on this tribe.

I've studied the tribal council minutes, the tribal newsletters, the newspaper reports of the major events, and all the other studies by scholars and government officials that I've been able to lay my hands on. Back at that time I came to the reservation and talked to people who'd been involved, and also talked to people in Madison who had been involved from the state's perspective.

I doubt that anybody will ever go to this extreme in trying to understand what caused this disaster. I've been teaching government now for 5 years and studying Congress much of that time, and I've never encountered a policy that had so little rationale to it.

Eight years ago in Neopit at a State hearing I came before another committee, the State committee, to make a recommendation about what should be done. At that time I recommended that termination be reversed as rapidly as possible. I said the Menominee people had been the object of a vast social experiment based on the reactionary principle that people can be made free only by removing needed government services and protections.

The experiment has failed, as have similar experiments in the past. The Menominee people in the State of Wisconsin have patiently and diligently attempted to make a success of termination but the best efforts have only succeeded in reducing the size of the disaster.

The termination experiment has been tried and found inadequate. It should now be ended.

Of course, now it's been tried for 8 more years and we have even more abundant evidence. I think we probably have a committee now that may be able to move forward on this issue.

Frankly, I had little hope at that time that Congress and the administration would face up to the problem of admitting a mistake. I know that it takes a great deal of effort and unity from a community, especially a relatively powerless and small community, to obtain admission from agencies of the Federal Government that they made a mistake. Once something gets into the process, I know the bureaucratic tendency is to freeze it in the process and freeze it indefinitely.

I think we have seen this all too often in our national policy. This is a prime example.

Everyone who was involved in this policy knew before the law was finally implemented, I think, that it wouldn't work and yet it went forward because there had been so much in the way of legislative and bureaucratic commitment to going forward with it. I think it's a remarkable tribute to the Menominee people that they have been able to not only survive this period but put forward the effort to create a unity here to bring the issue to national attention to the point where now there seems to be some real chance that this policy will be reversed.

I arrived very late at this point. The final loss is threatened but it is an extremely encouraging development that brings this committee here today.

Once again, as in each of the earlier crises of this tribe, the remarkable local leadership has appeared and people have united behind that leadership to resist the disaster.

Let me go back to some of the basic points I would like to try to nail down in my testimony. In the first place, the Congress and the Bureau of Indian Affairs forced the Menominees into termination against their will. You often hear cited that this was with tribal assent. I studied this issue just as carefully as I possibly could and I never found informed tribal assent at any step in the process, and I did find continually heavy coercions from both the Congress and the Bureau of Indian Affairs to force some kind of apparent assent.

I'd like to present a little documentation of this point.

Mr. LUJAN. Where are you reading from, Dr. Orfield?

Dr. ORFIELD. I'm reading from Congressional reprint of mine on the study. I'm reading from testimony that was taken from the joint hearings of the Senate-House Indian Affairs Subcommittee in 1953, 1954.

Mr. LUJAN. Could you give me the page number?

Dr. ORFIELD. Let me see if I can do that for you.

This particular material can be found in the volume called The Organization Question in the Kennedy Subcommittee Hearings, volume 4, pages 720 to 723. And the impasse has been reached in Washington negotiations. This was in 1953:

> And the tribal delegation asked Senator Watkins to visit the reservation. Watkins is the only Member of either Subcommittee who could find time for the trip to the reservation.
>
> After a short stay on the reservation he spoke to a general council meeting on the morning of June 20th. After talking for about forty-five minutes and answering several questions he was forced to leave to make other commitments.
>
> Senator Watkins told the tribe that Congress has already decided upon termination. Congress, he said, desires that you should manage your own affairs. It wants you to take over in three or four years.
>
> I would be willing to agree to a three-year program with the condition that it means action at the end of it. There must be some day when the property will be turned over to you.
>
> Only with termination, Watkins said, would the per capita payments be made.

In other words, the Senator who is the Chairman of the Indian Affairs Subcommittee came to the reservation and told the people that Congress had already decided—of course Congress hadn't declared the general policy—it had declared a general policy position, but he told them the Congress had decided on their particular case and they would have at maximum until the end of the first Eisenhower administration to comply and to take over responsibility, and he went on to tell them that they wouldn't get their claim settlement which had already been languishing in the courts since 1952

"In other words, the threat was that, you really have no alternative at all. Congress has decided you will be terminated whatever you do and you won't get your money unless you give some form of assent to termination.

"Later that day there was a general council meeting which voted in favor of the resolution which included provisions both for a per capita payment and accepting termination. No offer was made to call a tribal referendum. No effort was made to explain in any sense what termination meant.

About a month later there was another vote in which there was unanimous vote of all the tribal members present at a council meeting against termination, once the facts of the situation began to be understood. I think that this record sustains the argument that this was no choice. This was a coerced choice of an alternative which nobody understood, and when I say nobody, I mean not only the Menominee people who were threatened by the Senator, but I mean also the Bureau of Indian Affairs and members of the committee itself.

Nobody had any evidence about what it meant. Nobody had any idea beyond some general philosophic statements.

The second point that I want to make is that Congress and the Bureau of Indian Affairs acted without any serious effort to determine the factual impact of termination. The fact was that the Menominee tribe was one of three tribes in the United States which was paying its own way, paying for virtually all the services which it was receiving.

Though many people believed, although they didn't examine all the tribes, that the tribe must be economically self-sufficient, for the Federal aid to be cut off, of course the terrible blind spot in that argument was that the tribal economy was relatively prosperous only because it operated with a tax exemption. Aside from that, it was operaing with a half-century old plant that was obsolete for a decade. It was operating a very inefficient labor structure, and it managed to get along only because it had a tax exemption.

Nobody really focused on that point from 1954 up until about a year before termination came to be. The fact was that there were some of the shoddiest pieces of analysis I've ever seen in this process.

The first response of the Bureau of Indian Affairs after the termination statute was enacted in 1954 was to cut its staff here by half, and to begin withdrawing just at the time when they needed the serious work done on what could be done to help the Menominees and serious analysis of what the problems of termination would be.

The third point is that the Congress and the Bureau of Indian Affairs persisted in forcing termination in the face of evidence that it wouldn't work, in the fact of contrary proclamations of national policy. I think Dr. Nash probably said better than I could how the accumulating evidence convinced Wisconsin officials by the late 1950's, convinced many of the new officials of the Kennedy administration, also convinced many of the lower ranking officials of the Bureau of Indian Affairs, that termination would simply be a disaster. It wouldn't work.

The Menominees came to Congress repeatedly to say that, to predict just what has happened subsequently, in spite of the fact that President Eisenhower formally abandoned the policy of termination and in spite of the fact that the Democratic Party abandoned it, it went forward in the Menominees' case.

In other words, Congress not only coerced the tribe into doing it, not only failed to provide the necessary resources for evidence to understand what the impact would be, but ignored evidence that stated that tribal officials did repeatedly try to bring to the attention of national officials.

The fourth point, I suppose, should be pretty self-evident by now. The policy has caused irreparable damage and some of which can never be repaired. Jobs were lost to people because the tax exemption was removed and the tribe, in order to maintain any kind of economic viability, had to take the ironic step of firing its own members from work in order to increase the efficiency of the plant.

At the same time, of course, that just increases the welfare rolls of the counties, since there was no alternative employer. That put people into a vicious squeeze. It meant lost jobs that otherwise would have been available to tribal members.

Loss of land, of course, is also self-evident. This bill won't repair it, but at least it may prevent further irreparable damage.

Loss of identity is an issue on which you also heard testimony yesterday, about the young tribal members and their loss of identity and the recognition by the Federal Government.

The fourth kind of irreparable damage is the loss of educational services and other Federal services to other Indian families who otherwise wouldn't have received them over the last 12 years. This, of course, can never be repaired in many cases.

There have also been allegations made by the Menominee tribe, I believe on the basis of substantial evidence in the Court of Claims that very serious, long-term financial damage has been done to the tribe as a result of the termination process.

The fifth point that I wish to testify to is also one in which there has been much effective testimony, that tribal assets are jeopardy if action isn't taken before the tribal stock becomes negotiable. There will be a good deal of loss of control of this land and in a way that can never be restored. Rapid action is essential to avoid this.

I believe that this is a modest, reasonable bill. I have often thought about how you could put these pieces back together again, and I think that this is one of the least controversial and most plausible and least offensive to anyone, kind of a proposal that could possibly be designed.

I don't think that Congress should work under the illusion that this—I'm not sure that they should not be considering specific payment to ease the burden of a transitional period as part of this legislation. This would prevent further damage.

But there is, I believe, a very substantial Federal obligation to repair some of the damage that's already been caused by singularly callous treatment of this tribe.

The last point is that the importance of this bill for national Indian policy and national Indian mood—since I wrote my study on the Menominees and it was circulated by the National Congress of American Indians—I have talked with Indians from all over the country who are profoundly upset about this tribe's situation and worry about the same thing happening to them. In spite of the declaration of President after President, Congressman after Congressman, that it will never be done again it lives as a real fear in the minds of people.

I was out at UCLA talking with Indian students less than a month ago. They all seem to know about he Menominee situation and to be very actively interested in it.

I've heard this from Indians I've met all over the country.

Mr. LUJAN. Ada has been very busy.

[General laughter.]

Dr. ORFIELD. I believe that this is becoming even more than it has in the past a kind of central, symbolic test of the good will of Congress and of the national administration, and I don't think that until something is done to repair the damage that has been inflicted on the Menominee people and to prevent the final loss of their assets, that Indian people in the rest of the country are going to have confidence that Congress is really ready to vary this threat, and I'm going to be willing to turn their full attention to subsequent issues of Indian development.

Mr. MEEDS. Thank you very much, Dr. Orfield, for a very fine, helpful statement. I think I'll use it when I present this on the floor of the House.

I like the way you have laid it out, because I think that is a very logical method. Two questions, and you have really kind of answered the first one, but I want to nail it down a little tighter.

Can you think of any one thing other than the passage of this bill Congress could do which would more readily and more certainly assure Indian people across this nation that the concept of termination is terminated?

Dr. ORFIELD. I can't think of anything. In fact, I don't think any congressional statement will be believed unless this is accepted, and concurrent resolutions which are only effective for one Congress would not have anywhere near the effect of the passage of this bill.

If this tribe goes under, I don't think any concurrent resolution is going to be received with much interest or credibility.

Mr. MEEDS. So it's your professional opinion that restoration, the passage of this bill, would be an effective signal to Indians nationally that the spirit and direction of House Concurrent Resolution 108 is dead?

Dr. ORFIELD. I think so.

I think, Congressman, that in my discussion with Indian leaders that there is a great feeling that termination is lurking behind any legislative proposal, and I think this kind of action is really needed so that people can consider new proposals on their merits instead of thinking of them as a kind of veiled termination.

Mr. MEEDS. Now somewhere along the line, I'm sure that on the floor of the House, if not before, we're going to have to face the issue that this is precedent setting. We have had terminations terminated but we have never had termination restored.

Do you think that the argument that because this legislation sets some precedent it should not be enacted should hold much weight?

Dr. **Orfield.** I believe that's up to your committee to decide.

Mr. **Meeds.** Well, what does it do for you?

Dr. **Orfield.** My own judgment is that the other terminated tribes who have already lost their economic base should receive restoration of the right to participate in Federal Indian programs.

Mr. **Meeds.** Well, none of them are the same, are they?

Dr. **Orfield.** No, of course not.

Mr. **Meeds.** Have any tribes fought against it?

Dr. **Orfield.** I don't think the bill in any way prejudges the issue.

Mr. **Meeds.** But has any tribe fought against termination initially like this one did? Has any tribe suffered the absolute disaster that this suffered, and has any tribe tried as hard to be restored as this one has?

Dr. **Orfield.** The effort of the Menominees has been singular on all scores, I think, but my suspicion is, if you look closely at the results of any termination experiments you would find disaster.

I think all we have to do is send some people out to look at them and we would find that.

Mr. **Meeds.** And most of them, with the Klamath, for instance, it was certainly a disaster that was irreversible at that point, but it is not irreversible here, is it?

Dr. **Orfield.** No.

I think this is a real test in the Congress.

Mr. **Meeds.** Thank you very much, Dr. Orfield.

The gentleman from New Mexico.

Mr. **Lujan.** Thank you very much, Mr. Chairman.

You have said that the experiment in termination has been a disaster. The President of the United States has said that it is nothing to go forward with.

All of us sitting here, Members of Congress, I think have said the same thing. I think that is the majority opinion in both the House and the Senate and so the question of termination is gone. On the other hand, what we get with restoration in this particular case is what all other tribes complain about all the time, and that is the domination of the Bureau of Indian Affairs, and so we are at two extremes.

Frankly, I would have very mixed feelings to tell anybody, you have to go under the Bureau of Indian Affairs, but that seems to be the only alternative at the time.

You have made some deep studies into all of this and we are looking in addition to this particular piece of legislation, these hearings are looking into all Indian problems. What alternative is there to this domination by the Bureau of Indian Affairs to life on the reservation?

Dr. **Orfield.** Well, I think there are some real alternatives, Mr. Congressman.

I think the important thing for the Menominee economy is that they receive restoration as a tax exemption and restoration for pariciipation, the right to participation in Federal services.

I don't think that in any way means that they be administered directly by the Bureau of Indian Affairs bureaucracy. I happen to think that's one of the worst bureaucracies I've ever encountered in my life, although there are some notable exceptions.

I think it would be very good for Congress to give serious thought to possibly even incorporating in this legislation or subsequent legislation a strong directive to the Secretary of Interior with perhaps an explicit deadline to develop a plan, contracting procedure with the new tribal entity to decentralize as much administrative responsibility as possible to the tribal government.

Mr. LUJAN. Do you think, then, as part of this we should tell the Bureau of Indian Affairs we think that we're beginning back into the reservation status of the Menominees, that you should just calculate how much it's going to cost in health services and educational services and roads and all of those things, and say to the Bureau of Indian Affairs, just commit that much money to the tribal council and let them do it any way that they want to?

Dr. ORFIELD. Well, my judgment is that you have to have the tribal council intact under a constitution that was approved by the Menominee people before you could judge these issues.

Mr. LUJAN. Well, assuming that we do have a tribal government, that the restoration has gone through and it has been organized, and we have a tribal government, do you think it would be a good idea for us to say, to just go and commit these moneys to the tribe and let them run their schools, let them run their health services, let them look for the teachers, let them hire them, let them go out and get doctors, or whatever they need?

Dr. ORFIELD. I think it would be good to contract as many functions of government as possible to the tribal government with as much broad discretion as possible. It seems to me the Menominees are one of the few tribes in the country that has a long experience of substantial administrative influence over their own affairs, and this should be reinforced just to the full extent that the tribal government wants to take on the responsibility, either for contracting directly for provision of services or for making its own subcontracts for provision of services.

Mr. LUJAN. Can you think of any areas where we should not contract with the tribe?

Dr. ORFIELD. I think you should do it to the full extent that the tribe feels it can assume functions.

Mr. LUJAN. Are you pretty familiar with the Menominee situation?

Dr. ORFIELD. Pretty familiar.

Mr. LUJAN. Are there any programs that the tribal government could not run? Do any come to mind immediately?

Dr. ORFIELD. Not that I can think of, either through contract or subcontract, but I wouldn't want to prejudge and I wouldn't want to see in the legislation something that would force the tribe to take on the function.

I would judge that they would be competent to provide all the functions.

Mr. MEEDS. Thank you again, Dr. Orfield.

We appreciate very much your testimony.

The next group of witnesses will be property owners, represented by Mr. Florian Willmas.

Now, if there are other property owners in the audience, who would like to testify, we would be delighted to have their testimony at this point. Is Mr. Cook here, Norman Cook?

The Chair has been advised and is somewhat disturbed that there are people who feel they would like to testify but are apprehensive about how their remarks might be taken because they might testify against this legislation.

Let the Chair first assume anybody within the range of his voice, which is a long way, that the Chair would be very desirous of having that testimony. If they are indeed apprehensive, their testimony can certainly be held confidential. I think personally, however, it would make a much stronger impact with the committee and with the people, if they would come forward and say what they have on their minds.

As the Chair said yesterday in commencing these hearings, we can disagree without being disagreeable. I would hope that anybody who has evidence and testimony bearing on this subject—regardless of the popularity or unpopularity of that testimony—would not be frightened and would indeed come forward with that testimony.

Mr. LUJAN. Mr. Chairman, I might add that I have consistently been at staff because I am rather disappointed. Most cases, we get the two sides of the issue, and I have been talking to staff, how come nobody has come up and said, we don't think that this legislation ought to be passed. I have never been at any hearing where no one stands and says that—and staff tells me that anyone is welcome, and as a matter of fact I would prefer if somebody did get up.

Mr. MEEDS. So would I.

Mr. LUJAN. So that we would know the exact feelings in the area.

Mr. MEEDS. We will now hear from Mr. Willmas, and any other property owners who would like to testify at this time.

STATEMENTS OF FLORIAN WILLMAS AND WILLIAM R. GIESE

Mr. MEEDS. Mr. Willmas, we're delighted to welcome you before the committee, and would you identify who is with you also?

Mr. WILLMAS. This is our attorney, William R. Giese.

My name is Florian Willmas. I am president of the Moshawquit Lake Association and I represent the membership of 84 landowners on Moshawquit Lake.

I was going to introduce our attorney, Mr. Giese, at this time, but I've already done that.

We had no knowledge to appear at this hearing until Thursday evening, May 24, 1973. We are not prepared to give a detailed summary before June 24, 1973 to the House Subcommittee on Indian Affairs.

At this time our Moshawquit Lake Association Inc. would like to submit a brief summary of our historical background. The first people of our association bought property in 1963 directly from Menominee Enterprises Inc.

Moshawquit Lake covers an area of approximately 329 acres of water. We have a total of 83 non-Menominee taxpaying private property owners.

Ninety-nine percent of these homes are year round homes, and purchased mostly for retirement homes. Basically, our people are the original property owners.

At present there are 12 year-round families on Moshawquit Lake. Out of these 12 there are 5 non-Menominee families who have children of school age.

The total non-Menominee children attending school is 13.

All of us purchased our property in good faith and expect to be treated fairly and equally regarding governmental services and their financing. We feel, however, that under the provisions there must be a section in the bill that allows if and when necessary that the State of Wisconsin can restructure local government.

Mr. MEEDS. Thank you very much, sir.

Could you give me some idea of what percent of non-Indian property owners in the county, other than your own, which you have given me already in your statement, are permanent residents of the area, sir?

Mr. WILLMAS. I do not know.

There are, as I understand, quite a few in the Legend Lake area.

Mr. MEEDS. Now, what special rights do you feel you obtained in the purchase of your land? Some fishing rights, as we have heard yesterday?

Mr. WILLMAS. Well, these were rights that were granted to us through our original lease and since we were given these rights we feel we should be able to exercise them.

Mr. MEEDS. You said lease. Is it a lease or a purchase, sir?

Mr. WILLMAS. Originally we were given a 4-year lease.

Mr. GIESE. I wonder, Congressman, could I interject a statement to clarify it at this point?

Mr. MEEDS. Please do.

Mr. GIESE. When we initially came up here—and I say we because I was one of the initial ones, I came in 1965, there were a few that preceded me up here on Lake Moshawquit— we were offered what was called a trust agreement and this trust agreement provided that it was either an outright purchase at that time, those people that wanted to buy their lots in one lump sum payment did so by paying to the Menominee Enterprises, Inc., the total purchase price of the lot under this trust agreement.

The agreement provided that it would be 40 years before you would get the deed. However, the trust agreement was recordable; of course, it was a conveyance of land.

You could use it for financing. I did. Others did. There was no difficulty.

It was in effect a deed because it did hold and did guarantee that after 40 years you would get a deed to the premises.

The other situation was, if you wanted to purchase the property on an installment basis, this also was called a trust agreement and that also ran for 40 years. This, although they called it a trust agreement and a type of leaseback provided with the agreement, they broke down the annual payment as to how much went to interest, how much went to principal, and although there were references that this was rental, it was obvious what the situation was and I'm sure—and I've yet to find an authority in Wisconsin, a reputable law firm that doesn't agree with me—that this was actually a land contract, the installment purchase agreement, and would have had all the equities of a land contract because after 40 years you were guaranteed again that you would get title to that land.

Mr. MEEDS. I see.

Now, do you know, since you were one of the original people who dealt with this, why that kind of method was pursued?

Mr. GIESE. Yes.

I'm not familiar particularly with the background of why that method was pursued. It was a very unusual method in the State of Wisconsin because here we deal with land transactions in warranty deeds for property purchased outright and we deal in land contracts when you purchase property on an installment basis.

This was quite innovative. It was quite new. It was with some reluctance that bankers particularly accepted as a method of financing when you just had this trust agreement, although the title companies did go along with it, did guarantee the title to the mortgage lenders and so forth, so we have really had no difficulty acquiring financing although this was not the traditional method in the State of Wisconsin. And traditionally of course, bankers like to follow traditional methods.

Mr. MEEDS. Like attorneys.

Mr. GIESE. Not necessarily.

This one—what I think occasioned the change, when they went into the Legend Lake project, was this: That when we purchased our property we purchased it directly from Menominees. We dealt with Menominees.

I never saw anybody but a Menominee when I purchased my property up here. Menominee Enterprises directly had transferred title directly from the Enterprises to me.

I purchased several properties up here, incidentally, and we had our dealings entirely with the Menominee people. They were entirely the sales force. There was only some limited, 80-some lots that they intended to develop on the lake although it is a 300-acre lake, which isn't particularly large. There's a lot of low land on it.

My understanding right away was that they never intended, and they did not plan, a good part of the land around the lake because it was low land and not fit for development, and of course since that time we've had shoreland zoning law in the State of Wisconsin law and they cannot develop it anyhow. It's a conservation area.

Mr. MEEDS. Now, as I understand it, Moshawquit Lake is involved in litigation by Menominee Enterprises?

Mr. GIESE. No: they are not, Congressman Meeds. They are not involved in that. That is the Legend Lake development and not our lake, Moshawquit, who are parties to that action.

I want to state this in clarifying the situation too, after the commercial development came about the Legend Lake project, and they got outside people in there, the Menominee Enterprises that developed that lake, and to sell it, outside salespeople, and they were going into this thing in a big way as they did on Legend Lake.

At that time we were approached, the people on Moshawquit Lake were approached, and told that we could get our warranty deed also, that we had paid all our property in full, could get a warranty deed immediately because in Legend Lake, as I say, the merchantability, the trust agreement, did not adapt itself to a merchantable title on a large scale and so, I'm told, that for commercial purposes over on Legend Lake they wanted to change the whole modus operandi and we were approached at that time and told we could have our warranty deed at that time.

I exercised that right, and I think most of us did that lived on that lake. We got the conventional warranty deed at that time.

I believe, also, those that were buying on installments were told they could have a land contract as such although that's exactly what they had anyhow under the Wisconsin law. You can't call a land contract a lease. It is still a land contract when all the equity and all the other incidents of a land contract are there.

Mr. MEEDS. Would you agree with me, Mr. Giese, that this legislation does not affect the status of either that land on Legend Lake or on your land; if you have good title to it, this legislation is not going to affect you one way or another?

Mr. GIESE. I would say that the legislation will not directly, legally affect us. I think that it has a lot—it will affect it very definitely indirectly.

The implications of this act being adopted without prior protection for the people that have good faith, in good faith purchased in this county, I fear that we're going to have problems galore.

Mr. MEEDS. Now, you're getting into another thing, sir. You're a lawyer. I'm a lawyer. Let's deal on a legal basis right now for a minute, OK.

Mr. GIESE. Fine.

Mr. MEEDS. All right.

I'm going to restate my question.

Would you agree with me or disagree with me that from a legal standpoint the passage of this legislation will not affect the title to the property on Moshawquit Lake or Legend Lake or any other lake if the title that the property owners have is good, was good yesterday; if this legislation is passed tomorrow it won't change it?

Mr. GIESE. It will not. I agree on that.

Mr. MEEDS. Now, if you would like to enlarge and get into the extra-legal aspects, please do so.

Mr. GIESE. In regard to that, we have the problem of providing services for ourselves and the people that are non-Menominees up here, and that having in good faith purchased this property at the time, and I'm sure that most people who purchased up here didn't think that we would be here on a Saturday afternoon in 1973 discussing an issue as serious as this.

I bought it to come up here and relax, to enjoy it. It was available. And we thought that it was in good faith that we all purchased up here.

And we feel strongly that these problems of the impact of this restoration and the impact upon the non-Menominees and the other property owners should be settled either prior to or simultaneous with any restoration.

Mr. MEEDS. Now, what are those problems, sir?

Mr. GIESE. Well, the problems would be, basically, I think, what we're all concerned about is of course the economic—this land up here, right at the present time, under the present status for lake property is about the highest taxed property in the State of Wisconsin. We're paying more taxes here and probably for less services than any other similar area in the State.

Mr. MEEDS. That's why you keep the property, huh?

[General laughter.]

Mr. GIESE. We keep it because we're willing to pay for it, Congressman Meeds.

Most of us have been up here for many years and we enjoy it up here. We like it up here.

It's accessible. If a person has certain recreational—it depends on what you enjoy. And so we are willing to pay that price.

I don't want to convey the impression that we're complaining about it, but we certainly don't want to get into the position where this cost becomes absolutely prohibitive, making the market value of our property nil.

Mr. MEEDS. So we're talking then about police, roads, schools, all of the governmental services that one ordinarily would expect to receive, is that correct?

Mr. GIESE. That's correct.

Mr. MEEDS. And with some exceptions, I assume you feel those present services are adequate, with the exceptions that you noted?

Mr. GIESE. I practice law in a number of counties in Wisconsin and particularly in two heavily populated counties, and of course I believe that a unit of government basically should provide certain services as you have enumerated, and I think those are minimal services that you should expect from a unit of government.

I do not think that the services, and I do not mean this in a deprecating way up here, are of the caliber that they should be of the standard that you will find in other counties, even counties with a limited tax base that you have here, comparing them to those counties. There are other counties in the State of Wisconsin that are in dire economic straits also.

Mr. MEEDS. You, then feel that these services are not presently adequate for what you pay for them? Could you give us some idea why that is, sir? At least, why you think it is?

Mr. GIESE. Well, again, I think it's an inability of and a failure of the U.S. Government in past years, and I don't mean just in termination here, but in creating a reservation situation that has failed and that has failed miserably.

This situation here is not symptomatic and didn't come about just because we had termination. It's a problem that faces the Indian on every reservation in this country.

You know it and I know it, and I don't personally see where restoration is the answer. We know that the reservation system has failed. I think it's a cop-out for the white man. I think it was to start with.

Someday we're going to have to face up to this problem. Someday we're going to have to educate these people to the level where they can cope with these problems and have the ability to do it.

Mr. Meeds. How about letting them educate themselves?

Mr. Giese. Well, I think——

Mr. Meeds. Maybe that's part of the problem. You said, we must do that, and we must do something else, for these people.

How about approaching it from the standpoint that they ought to do these things themselves such as by contract provide education in Menominee County and health services and some of the other things?

Mr. Giese. Well, it strikes me as somewhat of an anomaly that we are talking about them doing all these things on their own and yet we are also talking about the failure of them to meet these responsibilities in the past 10, 12 years.

Is it going to be any different? Is there some magic wand that you have got in mind that you are going to wave because the fact that we restored again to reservation status—I don't see where all this is going to ameliorate the problem except that Federal funds are going to be available again, and I think when I listen to some of the conversation here and some of the rhetoric that preceded immediately the speaker that preceded us, I didn't hear too much substantiated facts. I only heard his own previous testimony.

Instead of all this rhetoric I would like to hear actually some facts on how this is really going to ameliorate all these problems that have been here prior to and after termination.

Mr. Meeds. Well, I suppose you and I could talk for a whole day on some of the problems that not only Indians, but all of us face, but I appreciate very much your testimony.

The gentleman from New Mexico.

Mr. Lujan. Thank you, Mr. Chairman.

There are Moshawquit Lake and Legend Lake. What other developments are there?

Mr. Giese. La Motte Lake on La Motte Lake was developed about the same time as Moshawquit. It didn't develop as rapidly but it was available.

I know, when I purchased my first property up here I was also shown La Motte Lake and that was available at that time. Legend Lake came many years later, of course.

Mr. Lujan. Those are the three developments, basically?

Mr. Giese. Basically. There are some lots sold on the Wolf River. I think Bass Lake—isn't there a Bass Lake up further north that has some sales of property to non-Menominees?

Mr. Lujan. You say on your lake there are 83 individual owners. Do you have a rough idea of how many there are on Legend Lake?

Mr. Giese. I've seen figures of approximately 2,200 property owners, what usually has been discussed.

Mr. Lujan. That's quite substantial, then.

Mr. Giese. That's correct.

Mr. Lujan. Yesterday Mr. George Kenote said that the original intent was to lease them these lands for 40 years and that didn't sell too well, and the need of cash by the tribe was the reason why they went into a sales program.

Do you remember any effort to lease, or when you came into it, was it always a sale proposition?

Mr. Giese. No.

As I stated previously, you could either have this trust agreement which was the——

Mr. Lujan. But those were purchase agreements.

Mr. Giese. Yes, but they had this so-called lease. It had on the instrument itself, lease. But it was a land contract in content and I'm sure that if the Supreme Court of the State of Wisconsin had ever been called upon to rule on whether it was a contract or a lease, they would have held it was a land contract.

If you're a lawyer, Congressman Lujan, you probably realize the distinction between a lease and a land contract.

Mr. Lujan. No, I'm not a lawyer, but I readily understand when I lease or when I buy something.

What I'm really trying to get at, were you involved in all of this at the time when it was just offered for lease, no contract of sale, no deeds issued, just strictly a 40-year lease?

Mr. Giese. At no time did I ever know that there was just a 40-year lease available, if that 's what you're saying.

Mr. Lujan. We're going to have to leave up to the State of Wisconsin, probably, what type of government you're going to get, whether it's divided up into another county or whether the private property alone will comprise a county or—do you have any thoughts on that?

What should be done as far as the private lands are concerned?

Mr. Giese. Well, my thoughts on that are, basically, and simply and succinctly put, that it would be best if this whole area that is now comprising Menominee County would become a part of Shawano County. I say that because our cultural—the non-Menominee cultural context, the social, the educational and the judicial, has historically evolved around Shawano County and for that reason I feel that it would be best as a governmental unit that we become part of Shawano County.

Mr. Lujan. Do you think that isolated areas by themselves being attached to a neighboring county with which, I assume, they are not contiguous, would work?

Mr. Giese. I think that in answer to that, I think you have a lot of problems because as an example, when you get right down to it we are not exactly—for one thing, we are not contiguous for the most part to some other county and secondly within our own lakes we have lands that are owned individually by non-Menominees. We have lots that are still owned by Menominee Enterprises, Inc., so you have kind of a patch quilt effect around a particular lake.

You also have the fact that we are not homogeneous as a unit, the three largest developments being in the east with Moshawquit and Legend Lake and then Lake La Motte. We are really not homogeneous in the extent that it's all individually owned land at the present time.

Again, we have it interspersed with Menominee-Enterprises-owned land, so I think you would have a lot of problems in trying to separate part of the county out and have that become part of an attachment to other adjoining counties, Ocono or Shawano, up in that area where we are we are very close to, Ocono and Shawano Counties.

Mr. Lujan. Plus the fact, the very fact that picking up garbage you would have to send a truck from 40 miles away or whatever, I suppose.

Mr. Giese. Well, that particular service, it's self delivery to the sanitary waste disposal site, Congressman, at the present time and I have never heard any demands that anybody particularly wanted any waste pickup.

We have been satisfied.

Mr. Lujan. Who owns that sanitary landfill?

Mr. Giese. That's owned, as I understand it, by the land owned by the Menominee Enterprises, Inc. and under some arrangement with the county as to use of it.

Mr. Lujan. That would end up being reservation land.

Mr. Giese. It is, yes, it is Menominee Enterprise land.

Mr. Meeds. I have just one more question. Mr. Giese, and we are happy to have you here because I think you could give me some insight on these things.

I asked earlier what percent of the people are permanent residents as opposed to persons like yourselves who come here on vacation ——

Mr. Giese. What percentage on our particular lake?

Mr. Meeds. No, we have that information.

Mr. Giese. On the total number of lakes here?

Mr. Meeds. Right.

Mr. Giese. I wouldn't be able to give you an accurate figure on that.

Incidentally, Congressman Meeds, I would like to clarify one thing. In the past year I am now a permanent resident.

I have moved up here. I commute some 45 miles almost daily.

Mr. Meeds. Could you, as an attorney, tell me if you feel that the rights which must be preserved in this bill for permanent residents may differ from rights which must be preserved for people who vacation here?

Mr. Giese. No, I don't think so, because they have all in good faith purchased property here. They have substantial investments, people of limited means also.

I think some of us are more able to afford some of these things than others on these lakes, but with a number of them it was a substantial and a great part of their total asset picture and it's important to them.

Mr. Meeds. Let me put it this way. Where do you vote?

Mr. Giese. I vote at Keshena, right here in Menominee County.

Mr. Meeds. Well, I don't know what the laws of Wisconsin are, but I do know that in order to run for county office, you have to be a resident of the county. Now, if you are a resident of this county you would have a right to run for office, wouldn't you?

Mr. Giese. That's correct.

Mr. Meeds. But if you're not a resident of this county you would not have a right to run for office.

Mr. Giese. That's right.

Mr. Meeds. So maybe there is a difference in rights that has to be protected. Wouldn't you agree with me now?

Mr. GIESE. Well, I suppose that you asked me if any rights that we don't have now—I still don't see where you make that differentiation because we have the rights where anybody that's a temporary resident up here can move up here if they want to and they have that mobility if they desire and then they could get these rights.

I'm a property owner in a number of counties. I can only vote in one of the counties, however.

Mr. MEEDS. I understand. But that's what I'm trying to get at. Simply owning property and being a transient in an area doesn't give you some of the rights which being a resident of that area gives you.

Mr. GIESE. That I would agree with, yes.

Mr. MEEDS. And this bill and any kind of government which is set up pursuant to restoration may well have to protect the right of resident non-Indians to hold office, right?

Mr. GIESE. I think that would be basically on a State level. It would have to be attacked from a State legislature standpoint rather than any restoration.

Mr. MEEDS. Well, at least time and coordination may have to be taken with the State legislature then to get that?

Mr. GIESE. Yes.

Basically the position of our association is that we have really not taken a position for or against restoration. We are interested in seeing that the impact of this restoration is minimal upon our people that have bought property up here and are non-Menominees, and we would like to see that simultaneously or prior to restoration.

Mr. MEEDS. That's a very good summary of your statement, sir. Thank you very much.

Mr. LUJAN. Mr. Chairman.

Mr. MEEDS. Yes, the gentleman from New Mexico.

Mr. LUJAN. Well, the only reference I can find to that other than whatever rights you have would not be impaired. There is section 7 which says the tribe's constitution shall now provide that the governing body of the tribe after a full consultation with the Secretary shall make rules and regulations for the management of the tribal forestry unit, shall make regulations which shall be necessary to protect the assets of the tribe, and three, and we refer back that the tribe's constitution shall provide that the tribe may regulate hunting, fishing, and trapping on the reservation, the fishing by non-Menominees on Legend Lake or La Motte Lake and so on, and so there is a reference there that could eventually prevent you from exercising some of your rights.

Mr. GIESE. That's correct.

I must say this. I'm not that thoroughly familiar with this most recent legislation that was introduced.

I have other pursuits. I'm rather busy, and we did not hear of this hearing due to a breakdown in communications. We did not get notice of it until late Thursday night.

In fact, we had to get filled in and by getting the Congressman out of bed at 12 o'clock Thursday night, and so consequently we're not as prepared on the provisions of this particular bill, and I would like to reserve the right to submit written comment on that if you would allow me to do so.

Mr. MEEDS. First of all, let my express my chagrin and my sorrow that you were not notified earlier, and second, let me assure you that, without objection, the record remain open for the insertion of the prepared remarks.

[The prepared testimony will be found on p. 343.]

Mr. MEEDS. Thank you again for your testimony.

Mr. GIESE. I wonder if I could, just as a citizen now, speaking for myself and that is in regard—we hit on these fishing rights and just to clarify that situation.

In these agreements you had your standard form and your standard language and in addition to that, in a number of them, I can't say whether all of them but a number of them, I think most of them on our lake, typed in on that agreement were the hunting and fishing rights in all of Menominee County which were coincidental only to the original owner of that property.

Mr. MEEDS. Hunting and fishing rights in all of Menominee County?

Mr. GIESE. In all of Menominee County.

Mr. MEEDS. Well, again, I think probably the efficacy of that would depend on whether or not those who made the transfer have a right and the power to transfer that. I don't know about that question. I just can't answer your question.

Mr. GIESE. I wonder if I could have the right to submit as an exhibit a recorded instrument, the recorded instruments that were used at that time.

Mr. MEEDS. Certainly.

[The documents referred to will be found beginning on p. 351.]

Mr. GIESE. I wonder if I could make one further statement in regard to Congressman Lujan's statement, it is unusual to have a hearing and not have anyone appearing in opposition to this bill.

We hope that you are basically taking the position that we are. This is—and I've heard remarks from Congressman Meeds this morning that in effect this is innovative.

It surely is. Actually, basically, termination was innovative. There were only two large tribes that basically had termination rights.

This is completely new. It's completely innovative. There is a lot of study that has to be put into this on all these impacts.

Our position, and our group's position—which there are a number of individuals all in different pursuits in different directions, we don't get together everyday of the week—but we want more facts, we want more study made, we want to know what the impact of this is.

I've heard testimony here this morning from Mr. Nash that there wasn't study made enough at the time that termination took effect. Let's not repeat that mistake.

We won't always have a deceased Arthur Watkins around to blame everything on.

Mr. MEEDS. I appreciate that last statement.

[General laughter.]

Mr. Meeds. Let me assure you that this subcommittee has every intention of researching this very thoroughly, of learning the facts and trying to come up with some kind of an answer which we hope to come up with relatively soon. This is why we are here today.

If we act with dispatch, it will be because we have the facts at our command to do so. If we do not have those facts we will not act.

I can give you that assurance.

Mr. Giese. Well, I might want to say this too, just in closing, that we have attempted at every source, governmental, to get whatever facts we can and at this time we certainly find that there is a dearth of information on this subject, on this whole subject, and rightly so, and I of course feel that this is why congressional committees have hearings, so they can get further educated and get further facts and separate the facts from rhetoric.

Mr. Meeds. Indeed.

Again, thank you.

Mr. Giese. Thank you for your time, Congressman.

Mr. Meeds. Also I have a letter from the Legend Lake Property Owners' Association, the treasurer thereof, indicating that they would like time to present prepared testimony for the record if there is no objection.

That testimony, when received, will be inserted at this point in the record.

[The letter follows:]

LEGEND LAKE PROPERTY OWNERS ASSOCIATION,
Keshena, Wis., June 12, 1973.

HON. LLOYD MEEDS,
House Interior and Insular Affairs Committee,
Washington, D.C.

DEAR CONGRESSMAN MEEDS: The opportunity your Sub-Committee on Indian Affairs provided on 25 and 26 May 1973 for a review of HR 7421, the Menominee Restoration Act, was greatly appreciated. You and Congressman Manuel Lujan did an outstanding job in providing a forum for discussing the proposed Act and did so in a most equitable and efficient manner.

The Legend Lake Property Owners Association, Keshena, Wisconsin, situated in Menominee County, is vitally interested in HR 7421 re-establishing the Menominee Indian Reservation. Our interest is primarily, but not entirely, in subject areas not encompassed in the Bill, yet directly related thereto.

The following comments are applicable and pertinent:

1. *Section 4 (a).*—Amend to provide a Referendum by secret ballot of all qualified Menominee Indians to determine the expression of all Menominee Indians, prior to the election of the Menominee Restoration Committee.

Reason.—The present Bill more generally reflects the parochial interest of a *minority section* of the Menominee rather than the whole resident community of Menominees.

2. *Section 6 (a).—Concur.*

Reason.—A testing period is absolutely essential. At the moment, there are numerous unknown implications of Restoration that require time and effort in seeking answers and the resolution of factors not clearly described nor understood by current residents of Menominee County, both Menominee and non-Menominee.

3. *Section 6 (b).*—Amend to provide protection of the property rights of the present Stock and Bond holders of Menominee Enterprises, Inc.

Reason.—This section does not clearly protect current property rights. Current Stock and Bond holders under the Bill only have the option of negotiation. No provision is made to preserve the rights of continuing present ownership. The inference here is that of taking property without due process of law.

4. *Section 6 (c).*—Amend to more clearly define.

Reason.—As written this begs the question as to specifically what are the responsibilities of the Federal Government and those of State and County government. No where does the Bill state that the present County should remain intact, or that the Reservation would be administered independently by the Federal government with the State and County governments assuming responsibility for the remainder of the County. A key question here seems to be—just what are the perimeters of the proposed Reservation, all, or part, of the present County?

5. *Section 7.*—Delete "Fishing by non-Menominees on Legend Lake, et al., shall be regulated by the State of Wisconsin, and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin".

Reason.—Until the Reservation is specifically defined, that section is confusing, as part of the Menominee Enterprises, Inc. lands currently border on Legend Lake, Moshawquit Lake, LaMotte Lake and Round Lake. This brings in the question of the State stocking lakes that might, or might not, be associated with the Reservation.

Further, the question of the State stocking lakes under its regulation is an established fact and does not require an authorization under this act.

8. *Definition of the Reservation by Specific Metes and Bounds.*

Reason.—If the whole present County becomes a Reservation, Section 5 would preclude all non-Menominees from participating in the local government. If the whole present County becomes a Reservation, who provides governmental services to the non-Menominees—where does the authority to tax non-Menominee property lie—where does a non-Menominee vote?

If the present County should be divided, placing the Reservation under Federal control, what are the provisions for governing the remainder of the County?

9. The Restoration of the Menominee Indian Reservation provided for under HR 7421 is not opposed by the Legend Lake Property Owners Association. Our support of the Restoration, however, is predicated on the development of meaningful answers to our status as to whether, or not, we become part of the proposed Reservation and what happens to the rights of Menominee and non-Menominee property owners in the Legend Lake area. We respect the right of the Menominees to seek solutions to their problems.

The opportunity to comment on HR 7421 has been appreciated. Any further information desired by the Committee will be provided as desired.

Sincerely yours,

C. E. HERRICK,
Secretary.

Mr. MEEDS. We have our next witnesses, Mr. Joseph Waukechon and Mr. Gordon Keshena.

STATEMENTS OF JOSEPH WAUKECHON AND GORDON KESHENA

Mr. MEEDS. Gentlemen, it is my understanding that you are appearing on behalf of the Menominee Enterprises, Inc.

Mr. WAUKECHON. That's correct.

My name is Joseph G. Waukechon. I work for the Menominee Highway Department.

I am a member of the board of directors of the Menominee Corporation and I have been asked to talk about the roads prior to termination and afterwards.

Now, before termination all the roads on the Menominee Reservation were taken care of by the Indian Bureau of Public Roads, except highway 47 and 55, and that part of the county east of highway 55.

These roads were taken care of by the Shawano and Ocono Counties. Several new roads were constructed while others were improved.

A lot of this work was completed before I became connected with the highway department, and I talked with Mr. James Dick, over

30 years here in the highway department on the reservation working for the bureau of public roads in a supervisory capacity. He told me that their appropriations years ago used to be in the neighborhood of $40,000 to $80,000.

They had 10 to 20 city men and, depending on the amount of work to be done, they hired 18 to 24 seasonal employees. After termination some of the existing roads were designated as county or town roads. These then are the only roads maintained by the county highway department today.

All of these were to be taken care of by the enterprise. Many of these roads now have become rushing trails.

I would say there are probably about 80 to 100 miles of roads formerly taken care of by the roads department that must now be taken care of by the mill department, or the mill corporation.

Today the county has approximately 55 miles of what is known as county roads, that's county M, AA, V, WW, and C, approximately 85 miles of town roads, and of course the open streets and Keshena streets. State highways 47 and 55 have a combined total of about 53 miles. These are both new since they have been recently resurfaced.

With the development of Legend Lake, a spiderweb of 65 miles of road has been added to the county road system and since these are gravel roads, they have to be graded constantly because traffic is pretty heavy there in the summer. In the wintertime every road where a home has been built must be kept open so that the fuel men, telephone men, people who checked and can get in there.

The county highway department today has 19 men employed, a commissioner, a foreman, a bookkeeper, a stock man, three mechanics, four State men, three grader men and five truck drivers. Eight men have to take care of all the roads, and demand for these services will increase with the construction of more new homes.

Now, with the amount of work that they have to do, some of the work has to suffer. Sometimes we have a job to do and the maintenance of the roads has to suffer.

I don't know if we have had many complaints on the maintenance of the roads in the wintertime or in the summertime. In fact, I've gotten nothing but compliments on the maintenance of the roads.

So, with the possibility of restoration there would be another hundred miles of roads that could be taken care of by the bureau of public roads that have been disregarded in the last 10 or 12 years, and that concludes my statement.

Mr. MEEDS. Very good. Mr. Keshena.

Mr. KESHENA. For the record, my name is Gordon Keshena. I am the great-grandson of Chief Keshena who signed the Treaty of 1854 which established the Menominee Indian Reservation.

I am an enrolled member of the Menominee Indian Tribe, born and raised and educated here. I presently serve on the board of directors for Menominee Enterprises.

I'm going to speak very briefly about the Menominee Forest and our lumber mill as to its effects on the economy of the Menominee people. But before I do, I feel that a general statement about Indians and the Federal supervision is important.

During the past few years, the public generally has been stirred profoundly by the poverty and unjust treatment of Indians in the United States. Individuals and organizations who had never before interested themselves in the American Indian have been aroused by the realization that we have neglected many of our first Americans. This interest is not confined to one area alone but embraces all America, east, west, north, and south.

The need for more emphasis on the role of the Indian in our history is ever manifest.

Mr. LUJAN. Mr. Chairman, could we interrupt you for a moment? Do you have a copy of your statement?

Could we have it?

Mr. MEEDS. Please proceed, sir.

Mr. KESHENA. However, there is a sad lack of knowledge on Indians. That lack of fundamental information about the original American is illustrated, for example, by popular movies and books in which the Indians are often portrayed as savages and all the white soldiers as noble men.

Mr. MEEDS. Mr. Keshena, I see you have a long statement here. Would you mind summarizing, please?

Mr. KESHENA. I certainly will.

I think that all of us know and understand that the American Indian has probably been treated the most unjustly, and abused here in the United States. I think the Federal Government took a position many years ago of just putting Indians on reservations and really forgetting about the reservation, not really trying to do anything constructive for the Indians.

I think that as far as the Menominee mills was concerned, particularly the Menominee people—and then the thought of restoration, I think there are certain things the Government, the Federal Government, should attempt to do and understand.

I think that major emphasis on recruiting and training of Indian leadership to assume the responsibilities, some of those exercised by the Government now, must be turned over to them. I think that the raising of the general educational level must be done to provide better educational opportunities for all Indian children.

I th an effort should be made to encourage the Indians to understand and accept the full implication of their citizenship. I think it takes the assistance and the interest of more than just the Indian people.

I think the Indian problem is not a problem for the Indian alone. It is an American problem; and in the end, solving such a problem rests in all Americans at national, State and local levels.

I think it is your task then, as well as mine, to help and to do whatever we can to resolve these problems. I think understanding some of the background of the working of the Federal Government is important when we start talking about restoration.

The Menominees had, and still have, one of the finest timber stands in all of the Midwest and our system of selected logging has long been recognized as the ultimate in perpetuating valuable timber, but our mill for the most part is still operating in the same manner that it did 50 years ago. Every Menominee sitting here today can tell you that the mill operation is not large enough to employ all of those who want to work, that the profits from this one industry alone cannot support this whole community.

Who is to blame for this condition? Who is at fault? Why haven't we expanded, diversified with our natural product?

I say that a small blame must rest on the Menominees themselves, but the major portion of guilt must be placed on the BIA and the Federal Government. There are many examples I could cite to illustrate the failures and the unconcern on the part of the BIA but I will just mention one.

Over 30 years ago the Menominees knew the importance of veneer and there was a time when the Menominees and General Council adopted a resolution and we had the money at the time to go into the veneer business. All the experts in the field told us that Menominee was a natural. Yet the BIA refused to accept this.

I think this lack of concern, of really not trying to do for the Indians, is the critical problem. Restoration, is this what the Menominees really want? Restoration, to go back to reservation life with all its bureaucratic red tape and outdated policies?

I think we do. We want to reverse the Termination Act of 1954.

We want to be restored under some type of Federal trust. Give us restoration, but restore us to Federal trust in a manner and in a way in which the Menominees can govern, can plan, and can execute their ideals to the fullest.

After reading and listening to all the witnesses that appeared here today, after hearing and reading what our Senators, our own State Senators, Proxmire, Nelson, and the President of the United States, Richard Nixon, speak out and tell us that, they didn't have to tell us, we knew, that termination was a failure, the Menominee people know that.

We want to go back under some type of Federal trust. Certainly not all the answer is here today. It's going to take some time. It's going to take some study, but just as the gentleman mentioned, just preceding us, when he said he felt that a lot more research and a lot more study and a lot more time should be spent before we really consider restoring the Menominees back to Federal trust, I sort of question and I sort of think when they terminated us they didn't take the time to really work with the Menominee people, to study, to find out.

It was passed in a very short period. It was forced upon us.

Some people might say that I am naive but I still have faith in our system of government. I have faith in Congress. I have faith that you, you people, will and can admit to the mistake of termination and will take the steps necessary to restore us to our rightful place, and more importantly, I have faith in the Menominee people.

I have faith in our leaders; I have faith in our youth and our elders.

The Menominee people have faced many crises during their lifetime. This is just another one.

We'll overcome this one with your help. Thank you.

Mr. MEEDS. Thank you very much for a very eloquent statement, Mr. Keshena.

I am going to ask both of you gentlemen the same question, to just get your impression on it.

You have both been involved with Menominee Enterprises and government in the county. If legislation somewhat like this were to pass, and either through contract or some other fashion the responsibility for providing services, such as streets, sewers, police protection, education, should be turned over to the Menominee people, the tribe or some governmental agency composed primarily of Menominees, would there be the management level people among the Menominees to administer these programs, either to administer them by hiring Menominees or by contracting with non-Menominees to carry them out?

I know there is a shortage of Menominee teachers and things like that, but that doesn't mean that they couldn't be contracted for, and that those services could not be contracted for.

Mr. KESHENA. I think the Menominee people have the leadership qualities, the education in certain fields, to administer, if not by themselves, they have the judgment to contract for capable people.

Mr. WAUKECHON. I feel that the ability is here. There are people here now working in different departments, should they happen to finally take over those departments some day——

Mr. MEEDS. What is your position with highways again, sir?

Mr. WAUKECHON. I am foreman down there, sir.

Mr. MEEDS. Who runs the county highway department?

Mr. WAUKECHON. A man named Ted Spurrier is commissioner, and we have a highway committee.

Mr. MEEDS. Is Mr. Spurrier a Menominee?

Mr. WAUKECHON. Yes.

Mr. MEEDS. How about the sheriff? Is he a Menominee?

Mr. WAUKECHON. Yes.

Mr. MEEDS. How about the people who run the county government? Are they Menominees?

Mr. WAUKECHON. The county board is all Menominees.

Mr. MEEDS. As a matter of fact, now, the superintendent of schools of District 8 is not a Menominee, as he testified yesterday.

Do you have any positions other than the ones I just named where these functions would be carried out by people who are not Menominees?

I understand the district attorney and the courts come from Shawano County.

Anything else?

[No response.]

Mr. MEEDS. Thank you, gentlemen.

The gentleman from New Mexico.

Mr. LUJAN. Do you think this would have been the case except for this time of termination, or do you think—let me rephrase the question.

Were Menominees generally running the programs when you were under the Bureau of Indian Affairs?

Mr. WAUKECHON. No.

They had a program that started, I think, as Menominees became eligible or were able to take over certain departments, that they would do that. However, they had for years under the Bureau of Indian Affairs, they were unable to put their men into some of these positions merely because somebody said they weren't qualified.

Mr. LUJAN. Perhaps this time of termination, although it did produce some adverse effects, maybe that was one of the beneficial effects that came from it.

Following that now, in the operation of the mill, was that under the direction of the Bureau of Indian Affairs at that time also?

Mr. WAUKECHON. Yes, sir.

Mr. LUJAN. Then I gather they didn't let you go into the veneer business, which today would be a very profitable business, to be in.

Do you think provisions can be made so that the mill is run without the parental guidance of the Bureau of Indian Affairs?

Mr. KESHENA. Yes, I do. I think the Menominees have the capabilities, the expertise now to run and operate the mill effectively.

Mr. LUJAN. Do you think the BIA will let you get away with that?

Mr. KESHENA. I don't think so. I think there has to be a change in our particular situation here.

If restoration is to come I don't think that we can go under the old policies in the way the BIA is constructed in its handling of us. I think Menominee restoration has to be unique. It has to be different.

We have to take this and implement here different ideas that aren't practiced on all reservations, and I think Congress can do this.

Mr. LUJAN. I certainly hope you can make it stick, because I agree with you.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you, gentlemen.

Is Mr. Kaquatosh here, or is he out enforcing the law?

I thought that things were so peaceful here in Menominee County that we would have no problem getting him down here to testify.

Dr. Lurie?

I will advise the remaining witnesses, that we're running a little late, probably largely due to my own verbosity. If you have a long statement, we would very much appreciate it if you would summarize it.

STATEMENT OF DR. NANCY LURIE

Mr. MEEDS. I might just say that I would like it known that here is one of the experts in the history of not only the Menominee people, but a lot of Indian people in the United States. She is now the curator of the Milwaukee Public Museum, an anthropologist by trade and temperament, I'm sure.

Please proceed, Dr. Lurie.

Dr. LURIE. Thank you.

I won't have to identify myself, but I should say I speak of course as an individual scientist and not as a representative of the institution that employs me.

It's getting on towards lunch hour and we've heard a great deal of testimony. There is very little that I can add to what the Menominees, who are really the experts have said, with great persuasiveness and eloquence, and I think in view of all the circumstances of termination, a great deal of dignity and restraint.

I would like to submit for the record an article which I wrote, which was published in 1972, called Menominee Termination: From Reservation to Colony. It goes over much of the same ground that has been talked about these 2 days. It is of a somewhat different point of view and might be of interest to the committee.

I brought along copies of it, I think for the whole committee.

As an anthropologist I do things comparatively and there are some really startling parallels between what has happened to the Menominees since termination and the experiences of many third world people under colonial types of administrations. The reactions to their experiences are also surprisingly parallel to other people who have been forced into a minority position in their own lands.

I would also say in support of my statement, which was published in Human Organization, a journal for the Society of Applied Anthropology, and it was a referred article, which means that it had to be assessed and approved by three independent professional anthropological readers, and they approved it.

Now, I would like to confine my remarks to something that I think is very much taken for granted by the Menominee people. I think it's something that the subcommittee members are becoming aware of, but that really ought to be in the record because it is something that the public at large and many legislators have not been aware of.

There is a tendency, and if the subcommittee members will forgive me, particularly on the part of Western legislators and people who look upon people east of the Mississippi as somehow or other really not all that Indian; somehow they are phasing out, the longer they've been in contact the less Indian they are and it's just a matter of time.

I think this is a very dangerous stereotype. It has certainly worked against the interests of the Menominee.

Senator Watkins was fond of saying in promoting termination that the Menominees were four-fifths assimilated. I don't know how they ever came up with that particular fraction or who got the final fifth, but at any rate this is a notion that seems to be held about the Menominee and about the Eastern tribes generally.

We tend to forget that groups such as the Navajo, for example, who we think of as very Indian because they are very visibly Indian, that most of their culture has been borrowed from other sources and has been made uniquely Navajo, the sheepherding, the silver work, the blankets, the type of costume, the type of life is an amalgamation of Spanish sources, of Pueblo sources, but underneath it all there are fundamental core Navajo values, from their early history as hunters in the far North, that sets them apart from their Pueblo neighbors whom they have involved so much as their angry neighbors.

Now, the Menominee neighbors have done very much the same thing, because so many of the things that they have, that they wear, that they do look sort of familiar. We tend to think that they've become just like everybody else. But underneath there are enduring core values that are uniquely Menominee.

These are a people who have their own values that they cherish, that they want to pass on to their children, that they want to act upon and that, in talking to the Menominee people, I got the impression that they feel that these things are not only good for Menominees but that it is good for the whole fabric of the Nation to have variant types of community organizations, alternatives, and constantly searching for new and better ways of ordering social life. And Indian communities are natural laboratory experiments, if you will, that can benefit us all.

Now, in talking about the Menominee compared to the Navajo, let us just look at the rest of American society. All of us Euro-Americans think of ourselves as 100 percent Americans but we all eat pizza and that doesn't make us Italians; we may have our homes furnished in Danish modern but that doesn't make us Scandinavians.

We have taken these things and made them uniquely Euro-American. And on the small scale, in terms of a small community, the Menominees have adapted, and adapted up until termination, remarkably well.

What Senator Watkins and other people were seeing was not four-fifths assimilation but about a four-fifths percent successful adaptation of a community to a larger setting they couldn't avoid but they learned to live with effectively, and they were succeeding. If we're going to use the fraction of one-fifth or whatever percentage, where they were not succeeding was in the very things that have been talked about, the pressures of the Bureau, the constant pressures to be different than the people they were.

Under termination what we did was to undo the large percentage of a workable system and tried to make the whole system unworkable.

Now, Dr. Nash described himself as an applied anthropologist. I also am an applied anthropologist and I would like to give a little bit of background on my own involvement in this situation.

Like many people, I thought termination was a mistake but you didn't hear too much about Menominee County. There were all sorts of public statements, we will make it, and so on.

There were little rumbles here and there, in the newspapers. Occasional Menominees you would talk to that indicated all was not going well. The extent of the disaster of termination was not widely known and it was exceedingly difficult for the Menominees to find out really where they stood.

Termination has been a demoralizing experience for the Menominees. The confusion is the inability to communicate with each other.

In 1969 Ada Deer made sort of the same circuit of Indian leadership and got in touch with me. She was familiar with my work, an organization with the Winnebago, and said something has got to be done.

I don't know if I have been of any help. It certainly has been a learning experience for me, and I want to say wahwahonin to the Menominee people for letting me hang around and letting me at least learn.

One of the most interesting things since 1959 has been the generation of public knowledge about the Menominee, and just as peculiar set of circumstances led to termination, a peculiar set of circumstances led to the situation we are in here today having this hearing.

By 1969 you had younger Menominees, a whole host of people who had studied the situation, tried to get information, a lot of natural leadership, but that had never really been expressed; people who had been forced to make their living elsewhere, people in the cities beginning to ask the same questions, beginning to get together.

People were rethinking the situation of minorities. They were rethinking the situation of everyone in megasociety.

Young people were becoming dissatisfied. We were beginning to think about the nature of community and the importance of community.

When the Menominees began organizing as DRUMS, and there were many attempts prior to that, I have since learned, to organize, there was confusion; there was fear. As an outside observer, and I have tried to be as impartial as possible, for about 6 months I went around saying, it can't be this bad. There must be some extenuating circumstance.

There must have been some rationality behind this drive for termination.

I was forced to abandon this position. There was no rationality. People were afraid.

There was always agreement on Menominee aspirations: restoration, production of the land. There was always agreement as to how the Menominees felt about the land and the trees and the water.

Yesterday Mr. Heinz talked about the Menominees' intelligent view of the silva culture. This is the white person's way of putting it to the Menominees; it was like itself.

These are deep, core values, and all the Menominees, no matter how bitterly they might have opposed each other at any time, were not in disagreement that termination was a mistake. They were not in disagreement with their reverence for the land. They were not in disagreement with the need for some kind of restoration.

What difference did arise was in strategy. There were those who were careful, that the waste in time striving for termination would take away energy and effort from the need to keep things going as they were; that there was no hope, that there was no turning back, that there was no chance, and they were sincere.

And there were other people who were equally sincere and convinced that we are doomed anyway. We have got to go for broke. We have got to strive for restoration as our first objective. And they thrashed them out among themselves.

We haven't ended up here today as a sudden decision on the part of the Menominees. They've been living with this situation since 1954.

They have thought about it; they have talked about it; they have weighed alternatives, and through the last 3 years we have been able to see a unity of opinion growing based on basic agreements and now based on basic agreement as to strategy that the answer is restoration and restoration now.

And the Menominees have reached this agreement in a Menominee way. I have sat here through endless meetings. This is just one of many, where people would get up and say one thing and another person would say the diametrically opposed thing and everyone would sit there and patiently listen, and they would thrash this out and consensus has developed.

It has been very interesting just listening in the last 2 days to Menominee people saying, this isn't the Obey bill and the Froehlich bill. The Obey bill is our bill.

The things that were included in that bill were included on the basis of consultation and consentual decisionmaking among all the members of the tribe, utilizing outside expertise, weighing alternatives.

Menominee people are going to have to live with whatever legislation is passed. They have been the victims of legislation decided upon, amended by, fiddled with by outsiders, and that is why I started out saying the Menominees are the experts on Menominees.

It won't be perfect. No doubt there will be bugs that have to be worked out. You have to learn by practice.

If you have a perfect instrument this would be the millenium, but I submit that the instrument that the Menominees understand thoroughly because they have been living with this now for 3 years and talking about it has a much better chance of success than somebody else who comes along and says, "No, you've got to do it this way, you've got to do it that way."

The Menominee have proved to be extremely reasonable people in terms of working out the details, in terms of working out actual implementation, and should be kept constantly as a group kept in the confidence of the Congress and of the Senate, which was not done with termination.

This should be a continuing effort to work together with the Menominee people in getting their opinions, to be patient, as the gentleman from the committee here today and yesterday, to hear all sides, but this is something that the Menominees have to live with and they should be able to be treated and respected as adults to make their own decisions and to have these decisions respected and implemented as much as is feasible under any circumstances that might be presented.

Thank you very much. That is the extent of my remarks.

Mr. Meeds. Thank you very much, Dr. Lurie.

If there is no objection I would like to insert your paper in the record at this point.

[The document referred to follows:]

Menominee Termination: From Reservation to Colony

By Nancy Oestreich Lurie

Nancy Oestreich Lurie is Curator of Anthropology at the Milwaukee Public Museum and holds a part-time faculty appointment in the Department of Anthropology, University of Wisconsin, Milwaukee. While accepting personal responsibility for interpretation and possible error in this article, the author would like to acknowledge with thanks the tremendous help provided by the many Menominee and concerned non-Menominee people whose knowledge and insights have been drawn upon in the course of study in Menominee County and elsewhere since research was begun in 1939. The author would also like to acknowledge with thanks the opportunity to attend DRUMS meetings in Milwaukee, Chicago, and Menominee County and annual MEI stockholders' meetings as well.

ABSTRACT

Termination policy, touted as "freeing" the Indians, as applied in 1954 to the Menominee of northeastern Wisconsin, has impoverished a tribe that once paid for most of its own services and administration and has resulted in less self-determination than the Menominee exercised under the Bureau of Indian Affairs. The shift from federal to state jurisdiction, implemented between 1954 and 1961 turned the former reservation into Menominee County and turned management of the tribe's land, forests, mill, and other assets over to a corporation, Menominee Enterprises, Inc. (MEI), which became virtually the only taxpayer in the new county. A situation with all the elements of classic colonialism was thus created when the federal government played realpolitik and stuck Wisconsin with a new territory it did not want. The state, which became, in effect, a "mother country," endeavored to make the county pay its own way and even yield a profit to the state, and encouraged exploitation of Menominee resources to serve the larger interests of non-Menominee residents of the state.

The termination plan, which provided for "indirect rule" in a show of native leadership and institutions, corporation and county, actually assured that real power would be exercised by outsiders representing Wisconsin's political, business, and professional interests. A kind of "Third World" reaction has now set in with the formation of DRUMS, Determination of Rights and Unity for Menominee Stockholders, which protests MEI policies, particularly in regard to sale of land, and argues for repeal or reversal of termination.

LA TERMINAISON DES MENOMINEES: DE LA RÉSERVE À LA COLONIE

La politique de terminaison, racolée comme "libératrice" des indiens, appliquée comme en 1954 aux menominées du nord du Wisconsin, a appauvri une tribu qu'autrefois payait pour la plupart de ses propres services et de son administration et a eu pour résultat moins de libre disposition de soi que les menominées exercaient sous le Bureau de Affaires Indiennes. Le changement de la jurisdiction fédérale à celle de l'état, exécuté entre 1954 et 1961, a transformé l'administration du terrain, forêts, moulin, et d'autres biens à une corporation, Entreprises Menominées Inc. (MEI), qui est essentiellement devenue le seu contribuable dans le nouveau comté. Ainsi a été créée une situation avec tous les éléments du colonialisme classique quand le gouvernement fédéral a joué "realpolitik" et a obligé le Wisconsin à un nouveau territoire qu'il ne voulait pas. L'état qui est devenu, en effet, un "pays mère" a essayé de forcer le comté à payer pour lui-même, aussi bien que de livrer du profit à l'état, et il a encouragé l'exploitation des ressources menominées pour servir les interêts plus étendus de résidents nonmenominées de l'état.

Le projet de terminaison, qui a pourvu au "pouvoir indirecte" en faisant montre de direction et institutions indigènes—corporation et comté, a en effet assuré que le vrai pouvoir serait exercé par des étranges qui représentaient les intérêts politiques, commerciaux et professionels du Wisconsin. Une réaction type "Tiers Monde" a maintenant commencé avec la formation de DRUMS, la Détermination des Droits et de l'Unité pour les Actionnaires Menominées, ui proteste la politique MEI, surtout à l'égard de la mise en vente du terrein et les arguments pour la révocation ou le revirement de la terminaison.

LA TERMINACIÓN DE LOS MENOMINIES: DE RESERVA A COLONIA

La politica de terminacion, solicitada como la liberacion de los indios, tal como se aplico en 1954 a los menominíes del noreste de Wisconsin, ha empobrecido una tribu que en un tiempo pagaba por la mayoría de sus servicios y de su administración y ha dado como resutado un menor autodeterminación que la que los menominíes ejercian con la Oficina de Asuntos Indios. El cambio de la jurisdicción federal a la del estado, llevado a cabo entre 1954 y 1961, transformó la reserva antigua en el Condado menomini y pasó la dirección de las tierras de la tribu, bosques molinos y otros bienes a una corporación 'Menominee Enterprises Inc. (MEI), que se convirtió virtualmente en la unica pagadora de impuestos en el nuevo condado. Se creo así una situación con todos los elementos de colonialismo clasico al hacer el gobierno federal una 'realpolitik' y forzar a Wisconsin con un territorio nuevo que no queria. El estado que se convirtió, en efecto, en una "madre patria," hizo lo posible para que el condado pagara todos sus gastos y que incluso produjera un beneficio al estado, y alentó la explotación de los recursos

menominies para ne siviera a los intereses más amplios de los residentes no-menominies del estado.

El plan de terminació, que da "poder indirecto" a los jetfes nativos—a las instituciones corporativas y al condado, asegura de hecho que el poder real se ejerzca por medio de los que desde fuera representan los intereses politicos, mercantiles y profesionales de Wisconsin. Cierto tipo de reacción de un "Tercer Mundo" se ha instalado ahora con la formació del DRUMS. Determinación de los Derechos y Unidad para los Accionistas Menominies que protestan la politica del MEI, en particular en los que respecta a la venta de terrenos, y que arguyen en favor de la abrogación o revocación de la terminación.

Public Law 83-399 (25 U.S.C. Sec. 891-902), passed June 17, 1954, provided for the termination of federal jurisdiction over the Menominee Indians of northeastern Wisconsin. Touted as "freeing" the Indians, termination instead has subjected the Menominee to all the disabilities attendant on colonial status since Wisconsin assumed jurisdiction over the former reservation in 1961 when it became a county and termination became final. Although the nature of colonialism is a matter of common anthropological knowledge, Jacques Macquet's article "Objectivity in Anthropology" (1964) is a useful reference in this connection. Even though it is based largely on African data, the outline fits the Menominee situation with remarkable exactitude.

CLASSIC COLONIALISM

To begin with, a colonial territory is acquired by conquest, coercion, persuasion, or the game of realpolitik played among mighty powers that decide who shall have jurisdiction over what areas. Whether or not a new mother country is keen about acquiring a colony, the colony must yield enough gain not to be a burden, and preferably must be managed to the positive benefit of the mother country in providing tribute such as head taxes, raw materials, cheap labor, and opportunities for commercial exploitation by private interests to bolster the mother country's economy. It must also serve as a place to send settlers.

The enlightened way to govern a colonial territory is by indirect rule, a method favored particularly by the British. Macquet points out the invidious appeal such benevolent colonialism has had for applied anthropoligists with its show of native leadership and institutions. It is also a particularly useful technique to avoid unpleasantness between mother country and colony while the native population is dominant in numbers. In addition, the native leaders' power is shored up and their cooperation assured either by giving them a financial stake in the colonial status quo or by convincing them of the superiority of the colonial power and that, as a cooperative and informed elite, they as leaders are in a position to help their less capable brethren. Systematic, psychological estrangement of leaders from the people is necessary to avoid contrary input of information that might enable the people to manage for themselves in the modern world.

The leaders are answerable to the colonial power for the flow of tribute, and the mother country conveniently lets them bear the brunt of the people's discontent while making it difficult for the people to actually dispose of them. Eventually, native subjects do express discontent, because they can see that they are not really "self-determining" with their "own" leaders and institutions. The system does not assure the continuation of their own sociocultural integrity, as apologists for such colonialism have argued. It merely freezes them, in the interests of the mother country, to some traits characteristics of a certain period in their history that may not even have been one of the best. The native community is prevented economically and socially from changing along its own lines and incorporating innovations to its own direct advantage as is the nature of cultural change in self-determination societies. Under the colonialism, outsiders exploit the natives' resources, taking the lion's share, so that the native people do not benefit as a society. Frequently, settlers emigrate from the mother country, expropriate the best land, and relegate the native people to the lowest rungs in the class hierarchy. The alien society points to the few "successful" natives whom it needs and favors to keep the system going as evidence that the others are "drawers of water" and "hewers of wood," either because they are incompetent, lack ambition, are happy-go-lucky and concerned mainly with singing and dancing in their quaint native fashion, or because they think the world owes them a living since they have relinquished some land which was not being used productively or rationally according to the values of the mother country.

When the natives protest, intellectuals and nascent leadership in their ranks are put down vigorously with the combined force of the colonial power and the captive native leadership. The agitation of reformers and dissidents is publicized as a threat to all the mutually beneficial arrangements that the native leaders and the colonial administration have developed to preserve the native traditions. The administration may try to absorb the new native intellectuals into the colonial clique to keep the system going, but this can be dangerous. If the new intellectuals have powerful or "radical" friends in the mother country who disapprove of colonialism, they are bound to cause trouble.

PRETERMINATION CONDITIONS

Semicolonialism in the Indian Bureau.—The Menominee were not exactly strangers to the nature of colonialism prior to termination. Reservation administration by the United States Bureau of Indian Affairs (BIA) has long permitted only hollow forms of native institutions while promoting the development of a special type of native leadership. These native leaders are sufficiently marginal to their own society to be acceptable to the BIA—which is dominated by white ideology—but at the same time are acceptable enough to their own people to be elected and remain in office (Thomas 1966/67a). The less an Indian community is under the BIA's thumb in obtaining its wherewithal and administering its affairs, the more its members can demand accountability from its native leaders and determine its own interests. In this regard, the Menominee reservation approached the greater self-determination of the Pueblos rather than the "powerless politics" of many Plains reservations, where the economic potential of the land base has been drastically diminished and divided by the allotment policy of the nineteenth century. The dismal poverty, dependence on welfare, and incredibly complicated administrative arrangements regarding heirship and leasing of allotted Indian lands, which exist in many tribes, require excessive bureaucratic interference and control in the management of reservation affairs by the BIA (Thomas 1966b).

However, Indian reservations at their worst, today or in the past, lack the most important feature of full-blown colonialism: a substantial source of gain for the mother country and its private interest groups. This essential condition was provided for the Menominee by termination when the State of Wisconsin was euchred into the position of a mother country by the federal government. For Indians under federal jurisdiction, it is really only the entrenched bureaucracy that gains from maintaining the system, and this bureaucracy is prevented from getting entirely out of hand because it is supposedly working itself out of a job as a matter of official policy of the federal government. If local personnel cannot keep the Indians sufficiently satisfied to stay home and stop complaining to higher-ups in Washington, they are transferred and the local Indian community can try to establish more satisfactory relationships with fresh administrative personnel. Indian communities are thus able to exercise some control over the BIA because the BIA needs them to stay in business. The communities put up with the Bureau as long as the Bureau is necessary to maintain whatever protection the government will extend over the Indian land base and its resources.

Indian reservations, it must be remembered, are the result of treaties and other contracts whereby Indians bargained for small homelands as part of the price for the much learger areas they relinquished. Treaties that set up the reservations contain rather extravagant legal and moral obligations on the part of the government, or so the government has come to think in its efforts to get out of them. Sometimes couched in such poetic language to protect the Indians' lands as "as long as the grass shall grow," the treaties reflect certain callous but ill-calculated expeditiousness. The United States pledged itself generously without expecting to live up to its promises for very long, because in the nineteenth century the Indian population was declining rapidly. However, the Indians did not obligingly die out, and by the turn of the century, their numbers actually began to increase.

The Menominee proved particularly tenacious in staying alive and holding fast to their land, which has become increasingly valuable since the reservation was guaranteed by treaty in 1854. When the federal government decided to terminate its ties to the Menominee in 1954, the State of Wisconsin was on its way to acquiring a new territory and its native population. Unhampered by treaties or other embarrassing obligations, such as those the federal government had bound itself to, Wisconsin perhaps inevitably treated the reservation like a *colony*, while calling it a *county*, to be developed in the larger state interest. In transferring its jurisdiction to Wisconsin in 1961, the federal government approved a plan to handle the Menominees' assets which assured the kinds of abuses and exploitation that has since evoked Menominee reactions akin to those resulting from colonialism, benevolent or otherwise, in Africa and other Third World areas.

Historical background.—In 1953, the Menominee owned some 235,000 acres embracing valuable timber and scenic wilderness land along the Wolf River. Despite government efforts after 1847 to induce the tribe to move west of the Mississippi River, the Menominee managed to negotiate a treaty for this reservation in the northernmost portion of their own homeland—a concession they gained because the tract was virtually worthless to whites at that time. By the 1870's, however, the tribe was obliged to stand fast against the "Pine Ring" lumber barons who were in league with Congress to obtain the forest. Of Wisconsin's seven reservations in 1887, only the Menominee was spared allotment and its dire consequences, thanks to tribal opposition to the General Indian Allotment Act of 1887.

During the early twenieth century, the Menominee succeeded in holding off electric power interests that would have expropriated their stretch of the Wolf River—"the heart of the Menominee people"—and destroyed its natural beauty. While countering threats to their land, the tribe was not oblivious to its economic potential. By 1908, the Menominees' timber resources and interest in lumbering led the construction of a saw mill and the establishment of sustained yield logging on the reservation. The project was promoted by Robert LaFollette, Sr., and "fighting Bob" understood what the Menominee wanted. Intended mainly to create employment, the mill hired any Indian willing to work. Despite this seemingly inefficient practice, the enterprise began to show profits (Meriam 1928:516) that in time provided small annual payments to each tribe member. In addition, the Menominee were able to support a school and a hospital in cooperation with the local Roman Catholic mission. The reservation also boasted its own telephone and electric companies and paid most of the bill for community services and BIA administration which cost the government dearly on other reservations—particularly the allotted ones.

Retaining traditional features of open discussion and consensual decision making, the Menominee evolved a form of elective self-government sufficiently responsible to the community, given the usual handicaps of BIA administration, so that in 1934 they saw no need to avail themselves of the self-government provisions of the Indian Reorganization Act. This is not to say that the Menominee were without problems or were very wealthy. They were simply much better off than other Wisconsin tribes and than most tribes across the country, and after 1950, thanks to their own efforts, their prospects for future improvement were exceedingly bright. Their problems were that their single major industry was becoming increasingly inadequate to support a growing population with expanding economic aspirations, and the tribe chafed under the BIA's tight control over its financial affairs. Arrogating to itself technical and fiscal knowledge and higher managerial roles, the BIA kept the Menominee largely and literally at the level of "hewers of wood," although as early as 1928 the official view was expressed that the Menominee could be systematically phased into greater responsibility over their own reservation enterprises (Meriam 1928:15-16). Denied access to knowledge or training, the tribe was dependent on the BIA to manage its business and capital resources.

Even from the limited perspective of the labor end of the lumber business, however, the Menominee were suspicious about the government's inefficient marketing of a timber blown-down. In 1934, the Menominee began a lawsuit alleging federal mismanagement of their forest resources. The case was finally settled in 1951 when the United States Court of Claims handed down a judgment netting the Menominee about $7,600,000. This, along with interest-bearing funds built up over the years, swelled the tribal treasury to almost $10,000,000. Although some of the people disapproved of the dissipation of capital, the Menominees' personal fortunes were at such a low ebb by 1951 that it was agreed to distribute the bulk of the judgment money in $1,500 per capita payments to the approximately 3,200 tribe members, while earmarking the substantial balance for community improvements and new economic development.

TERMINATION

Thanks to termination, set in motion in 1954, the tribal treasury was virtually depleted by 1961; the lumbering operation now teeters on insolvency; new economic developments do not directly benefit the living standard of the community, but only keep the tribal corporation (created by termination) afloat; the hospital is closed with no medical care available in the community; the utility companies have been sold; and hundreds of Menominee have been forced to leave home to find employment, many only to trade rural poverty for urban slums. The tribal corporation and the community have survived precariously with the help of substantial federal emergency appropriations, various federal poverty programs, and revenue from the lease of the Wolf River area to the State of Wisconsin for a public park and campground. The cherished land, a stable focal point of changing Menominee culture for more than a century, is being sold to meet corporation taxes, and homesites are slipping from the ownership of Menominee families through tax default.

Finally, the Menominee people, under a county form of government and as shareholders in a complex corporation, exercise less self-determination and control over their own affairs and must cope with more outsiders having decision-making power over them than was ever the case before under BIA administration.

Legislative background.—That Congress gave little thought to the possible consequences of termination is clear from House Concurrent Resolution 108 passed in 1953 which set forth the general policy of termination and the intent and mood of Congress regarding the Indian interest: "as rapidly as possible" and "at the earliest possible time" Indians "should be freed from federal supervision and control and from all disabilities and limitations specifically applicable" to them. The resolution made no reference to the rights guaranteed to Indian tribes by the government in treaties and contractual agreements nor did it suggest how termination was to be accomplished. It merely directed the Secretary of the Interior to examine "all existing legislation . . . and treaties" regarding tribes in California, Florida, New York, and Texas and five other specifically designated tribes, including the Menominee, and to report his recommendations by January 1, 1954.

Since the Meriam Report of 1928 had already singled out the Klamath of Oregon and the Menominee of Wisconsin as approaching eligibility to cut federal ties, it is not surprising that they were the first two tribes to be terminated after passage of HCR 108. What is surprising is that as late as 1951 the BIA had made no significant effort to prepare the Menominee for managing their own affairs. After 1951, when the Menominee had obtained their own capital for self-improvement and were eager to develop new ideas and take on new tasks to meet community economic problems that had mounted alarmingly since the end of World War II, the BIA maintained a holding operation. Mill equipment was allowed to deteriorate, no new attempts to diversify products or increase production were encouraged, and no serious effort was made to phase the Menominee into full administration of the reservation and its assets. The BIA was even lax in its stewardship over the forest, allowing substantial destruction of this important resource through ineffective care.

The Menominees' personal economic condition also worsened steadily under BIA neglect while the money from the 1951 judgment was held in the federal treasury. It could only be disbursed with Congressional approval, and it soon became apparent to the Menominees that the price of these per capita payments—their own money—would be agreement to termination. Even the first effort to get the per capita request approved in 1951 had a termination rider tacked on the bill as a condition of its passage. This rider was opposed with the result that the Menominee did not get their money although some of the judgment funds were subsequently released to improve the hospital.

Meanwhile, the termination sentiment of Congress was protested by the National Congress of American Indians and other groups and individuals. They met with little success, but did win an informal and grudging concession that it would be desirable if tribes voted their consent to termination before specific legislation would be passed to terminate them. Thus, even before the actual passage of HCR 108 on August 2, 1953, the Menominee were pressured to vote for the euphemism that was being bandied about—"the principle of termination." Arthur V. Watkins, then senator from Utah and the main proponent of termination, made a special trip to the Menominee reservation on June 19-20, 1953 to argue the merits of his policy and predicted dire consequences should the people not agree to termination. When the vote was taken on June 20, 169 ballots were cast for termination and five in opposition. By June 17, 1954, Congress had passed Public Law 83-399 to terminate the Menominee.

There are two matters on which all Menominee agree. First, termination was never their idea. Although frequently exasperated with the BIA, they were nevertheless keenly aware of their vulnerability without the federal government's presence. They depended on their treaty as a guarantee of their rights as a minority to exist in peaceful possession of their homeland, protected by the United States government from any covetous designs by the more powerful, dominant society that saw the reservation merely as an increasingly valuable piece of real estate. Second, the Menominee were given to understand by Senator Watkins that the government would terminate them regardless of their desires.

Today, some of the 169 people who voted for termination insist that they were led to believe they were merely voting to request release of their per capita payments, since a single vote was taken on the issues of termination and the per capita payments. Others admit that they voted in fear of Watkins' threats and hoped that agreement would give the tribe some advantage in negotiating on the terms concerning the "principle of termination." Many people who cast no ballot had habitually boycotted any meetings or discussions on termination, their withdrawal a traditional expression of negative opinion. Others, particularly those away from the reservation, had not received timely notice that the vote was to be taken.

Quite apart from these consistent personal disavowals of responsibility for termination by the Menominee, there are two important objective facts to substantiate the oft-repeated Menominee grievance, "We didn't stand a chance." Congress acted with unusual, perhaps even unprecedented, haste in passing this highly experimental legislation—which would affect the lives and property of more than 3,200 Menominee—on the basis of an equivocal mandate from less than ten percent of the tribe's eligible voters. (As a matter of fact, during the summer of 1953 when the Menominee became more aware of the implications of the vote of June 20, another vote was taken, but Congress simply chose to disregard it. In this instance, 197 Menominee voted unanimously to forego their per capita payments if their price was to be termination.) Second, whatever the Menominee thought they were voting for or against and whatever their reasons, they could not possibly have made an informed decision. Most of the details of the termination plan for transfer of the reservation to state jurisdiction and for management of its assets were developed *after* passage of Public Law 83-399, which was even discussed and amended *after* the Menominee "agreement" to termination had been secured.

The long, complicated legislative history of Menominee termination prior to 1954 can be reduced to a few essentials. The tribal rolls were closed 90 days after passage of Public Law 83–399 on June 17, 1954. Although originally termination was to have been final in 1958, the date had to be postponed to 1961, which the Menominee protested was still too soon to work out the complexities of an administrative structure that would satisfy the Secretary of the Interior, suit the State of Wisconsin, and meet a few Menominee demands. Because the detailed planning generally took place away from the reservation and involved ever more legal, financial, and political intricacies and experts, the majority of the Menominee became progressively less informed about their tribal affairs. They were obliged to accept the final plan on faith, assured by the few who presumably understood it that it was the best arrangement possible under the circumstances and that their land would be protected.

However, serious economic problems began to emerge even before termination became final. Congress had authorized payment of the 1951 judgment per capitas as part of the termination package itself, which automatically took about $5,500,000 out of the tribal treasury. Then it was discovered that in the period immediately preceding termination, the BIA had erred in calculating annual individual payments to the tribe from mill profits. Consequently, about $2,000,000 more had to be disbursed from the treasury to rectify the mistake. Operating on the assumption that the tribe had a far more sizable treasury than it actually had, Congress had decreed that the Menominee should bear the costs of legal experts and half of the expenses in implementing the termination which they had not wanted in the first place. As a result, the tribe was operating at a substantial annual deficit by 1961 when termination became final. Yet, in the face of such obvious evidence that termination could only be a disaster for the Menominee, the government would not be swayed from its intent to terminate them as scheduled.

From reservation to county.—The Menominee Reservation was transferred to Wisconsin's jurisdiction as a new county, while the tribe's land and assets were converted into a corporation, Menominee Enterprises, Inc. (MEI). Wisconsin had opposed termination and had been helpful in postponing the final date of termination. But once faced with the fact of termination, Wisconsin offered the Menominee the limited alternatives of either separate county status or division among adjoining counties. The people voted overwhelmingly to convert the reservation into a separate county. Established on a ten-year trial basis in 1961, Menominee County is now fully recognized.

At the beginning of termination, the new county, the smallest in the state in population as well as area, was owned entirely by a single corporation (MEI) with one major industry that was in serious financial straits, as shall be discussed. It comprised, however, a large and valuable stand of timber and undeveloped lakes, creeks, and bosky dells in the heart of an important summer recreational area. Wisconsin's view was that if this new county could not put more money into the state coffers than it received (a possibility actually contemplated at the beginning of termination), it should at least pay its own way. The tax schedule was set accordingly. Even the infamous and disastrous Allotment Act of 1887 had given the Indians a 25-year grace period before requiring them to pay state land taxes. Furthermore, when it was realized that the Indian allottees could not maintain ownership because of the poor design of the Allotment Act, the federal government resumed its treaty obligations, at least in regard to the allotted land that still remained in Indian ownership, and restored tax-free status to such land.

Allowing taxation of Menominee land by Wisconsin is an even more blatant example than was allotment of the federal government unilaterally breaking its treaty obligations. When the Menominee Reservation was first established, the treaty of 1854 stated that the land was to be held "as Indian land is held"; that is, untaxed. The Menominees' consent to the "principle of termination," aside from its questionable nature in terms of obfuscation of issues and duress, clearly did not include a mutual understanding or agreement with the government that their treaty right to untaxed land would be forfeited. However, with termination, the tribal property was conveyed into the county under the MEI corporation structure and made immediately subject to taxation.

Wisconsin, with approval of the federal government, devised contractual arrangements whereby the neighboring county, Shawano, was to provide some educational and law enforcement services not available in Menominee County. These arrangements have become a source of Indian-white tensions, since the Menominee are subject to officials in whose election they have no voice. Also with federal approval, Wisconsin regulates the annual timber harvest in Menominee County. According to some experienced foresters, the state miscalculated badly in its initial estimates of the county's cutting potential if the forest was to be protected and the Menominees were to receive maximum profit.

At the time of termination, the state also created the Menominee Indian Study Commission, [illegible] legislative advisory committee ostensibly designed to concern itself with [illegible] Indian interest vis-a-vis the state. In reality, it seems to be concerned [illegible] least as much, if not considerably more, with the claims of the state upon Menominee County.

Immediately before termination became final, Wisconsin engaged in a flurry of activity to prepare the Menominee overnight for the responsibilities of government as carried out in its other larger, more populous, longer established, and very differently constituted counties. Meanwhile, the Menominee were also supposed to experience a rapid conversion to the tenets of faith held by big-time investors in a new entrepreneurial undertaking.

Menominee Enterprises, Inc.—MEI, the corporation set up to manage Menominees' land and other assets as well as to protect the Menominee from their own lack of fiscal sophistication, allowed tremendous power to be concentrated in the hands of a few people, nearly half of whom were not Menominee and were not directly answerable to the Menominee people. The corporation plan provided for each of the 3,280 Menominee, enrolled in the tribe as of 1954, to receive a bond with a face value of $3,000, paying four percent interest and reaching maturity in the year 2000, as well as 100 shares of stock. The bonds are negotiable with MEI having the first option to buy, but the stock is nonnegotiable until 1973 and has paid no dividends to date. Diagram 1 illustrates the structure of MEI as established in 1961 and modified slightly ten years later.

Given the huge block of Menominee minors and incompetents—controlled by a major Milwaukee trust company—and the power vested in the MEI Voting Trust, the control of MEI was almost automatically exclusionary of all but a certain kind of business mentality drawn from white expertise outside the tribe. Even Menominee tribal members who held offices in the corporation in 1961–71, the first decade of termination, were generally chosen from a select group. Such people either had helped frame the termination plan and thus had an understandable defensiveness about it, or they could be safely expected to agree with those who had devised the plan and to trust the wisdom of white experts, even when policy decisions might run counter to the majority sentiment of the Menominee people.

DIAGRAM 1. STRUCTURE OF MENOMINEE ENTERPRISES, INC.

ORGANIZATION

I. *MEI board of directors.*—Manages corporation for the certificate holders who are owners of MEI stock.

II. *MEI common stock and voting trust.*—Holds and votes shares owned by certificate holders; elects Board of Directors, above.

III. *MEI certificate holders.*—Elect members of Common Stock and Voting Trust, above. Includes:

a. *MEI assistant trust, First Wisconsin Trust Co., Trustee.*—Holds and votes certificates of minors and incompetents.

b. Individual adult certificate holders.

FUNCTIONS

I. The twelve-member Board of Directors elects corporation officers who carry out the board's decisions. During the first decade of operation, a bare majority of the board was Menominee as required by the termination plan. The board chairman is Menominee but the president of MEI is not an Indian.

II. The Common Stock and Voting Trust originally was comprised of seven members, three of whom were not Indian, who served seven-year staggered terms which permitted voting for one member each year. In 1971, because of organized pressure from certificate holders, the Voting Trust was expanded to eleven members with shorter terms, all of whom will eventually be Menominee. The Voting Trust has been a primary cause of dissatisfaction among the rank and file Menominee because it prevents the Menominee from electing their own corporate management by direct vote and because of the power the Voting Trust exercises, particularly in regard to sale of land. According to the termination plan, the sale of land (exclusive of forest land under special restrictions) requires a two-thirds vote of the "shareholders." The Voting Trust has interpreted this as two-thirds of its members who, technically, "hold" the shares, rather than two-thirds of the more than 3,000 certificate holders who actually own the shares. Ostensibly designed as a protection for the Menominees, this unusual feature of a voting trust in the corporation structure has deprived the Menominees of a large measure of control over their assets.

III. MEI certificate holders, in addition to voting for the members of the Voting Trust, can vote at ten-year intervals to abolish the Voting Trust, which, if not voted out, will expire in the year 2000.

a. The MEI Assistance Trust at the beginning of operation controlled over 40% of the vote and by 1971 still held over 15%, thus effectively dominating elections of Voting Trust members and keeping the Trust in effect to 1981.

b. Initially, each certificate holder owned 100 shares of MEI stock, but due to deaths and inheritance, some own more and some less, including non-Menominee spouses of deceased Menominees.

Weary from trying to win concessions for the Menominee in the termination plan and then faced with making the plan work, Menominees in MEI management understandably found solace in the views of their white business colleagues. The increasingly dissatisfied Menominee people were deemed impractical, "unacculturated," and even radical "leftwingers." The fact is, of course, that as the only taxpayer in the new county MEI faced staggering problems, and the impatience of MEI management with its critics is perhaps understandable. However, solutions to keep the corporation solvent and the county intact during its ten-year trial period instead seemed to benefit white outsiders and led inevitably to new problems for the Menominee certificate holders. For example, the county's major industry and source of employment, the saw mill, had been left in a dangerously antiquated condition by the BIA. Costly experts who were hired to help put the corporation on a profit-making basis could only suggest, in view of the depletion of the tribal treasury and the lack of capital for expansion, that the inefficiently large labor force be cut back. This threw people out of work and onto the welfare rolls to further strain the tax revenues needed for community services.

In an attempt to distribute the tax burden and retire the bonds with a minimal outlay of cash, MEI encouraged individual Menominees to buy their own homesites, pegging the bonds at a relatively higher market value if used for this purpose. With the mounting unemployment, however, many who bought land could not pay their taxes and now stand in danger of foreclosure. Economic necessity forced some people to sell their bonds for whatever ready cash they could get rather than apply them to buying land. Others, who had tried to husband their bonds for the $120 annual interest payments, had to forfeit them under state law when they were forced by unemployment to seek public assistance.

The living standard of the entire community was affected adversely when its status changed from reservation to county. MEI soon divested itself of the once tribally owned utility companies as unprofitable, which then forced the Menominee to cope with utility rates controlled by outsiders. An even greater hardship was imposed when MEI decided it could not allocate money from the corporation's limited budget to bring the hospital up to state requirements, thus denying the community access to customary medical care and wasting the investment of the 1951 judgment money in the hospital. The building now serves for county government uses.

Hostility built up particularly toward the Menominee officers of MEI who lived in the county and were handier targets than the white MEI members who only visited on matters of corporation business. Complaints centered on MEI (rather than the county government which the Menominee recognized as subservient to the corporation) as the only body with power and authority to act in the Menominee interest since termination had destroyed the institutions of tribal government. Arguments from disgruntled Menominee that the MEI should admit that termination was a disaster and bend its efforts to returning the county to reservation status were considered visionary and "unprogressive." Menominee officers in MEI, who had tried to stop or delay the government's termination of the Menominee between 1954 and 1961, could only see the cry to reverse termination as futile and as a dangerous suggestion which would deflect energy from the crucial business of trying to meet the corporation's tax obligations to Wisconsin. As long as opposition to MEI policies remained diffuse grumbling, it could be disregarded patronizingly and minimized publicly as a minority opinion among the Menominee. Acceptance of termination was officially sloganized with signs at the entrances to the county proclaiming, "We will make it."

Predictably, it was planned land sales of Menominee territory that finally precipitated widespread, organized reaction by the rank and file Menominee. Land loss had begun almost imperceptibly when MEI had attempted to raise needed tax revenue by leasing summer home land to whites on a few of the many small lakes dotting the county. As the tax situation became more oppressive and the corporation more desperate for cash, the lessees were quietly allowed to buy the land outright. The big clash over land resulted from The Lakes of the Menominees, or the so-called Legend Lake Project, involving more than 5,000 acres of artificially created lakes to afford maximum shoreline frontage and access for some 2,500 projected lots.

Most white people, including those in MEI management, do not understand what treaties mean to Indian communities. Even though the whites were convinced that the land development project was a matter of sound business practice, they found that some Menominee in MEI were unhappy about the project and knew it would be unpopular with the people. (Despite termination, many Menominee still looked upon their treaty as a guarantee that the possession of their land is a sacred, inviolable right.) Thus, to allay these feelings, an advisory vote from the certificate holders was obtained that appeared to give overwhelming approval to the development and sale of lake lots. However, there are questions, as there are about the vote on termination itself, as to whether the voters were fully informed of the implications of the land sales and the development project and whether many nonvotes were counted as approvals since they did not constitute outright rejection. The project was promoted to the certificate holders, and continues to be justified, as the best recommendation by an expensive management consulting firm which was retained by MEI.

The partnership which MEI subsequently entered into in 1967 with one of the major recreational land developers in Wisconsin calls for the Menominee to provide the land and for the developer to provide initial costs and expertise in building dams, digging lake basins, and promoting sales. The developer gets five percent off the top of all land sales and the remainder is divided equally between MEI and the developer after promotion and sales expenses are deducted. In addition, MEI is to have the benefit of more taxpayers in the county as a result of this development plan.

The actual extent and implications of the project were not apparent to many of the Menominee until the bulldozers went to work. MEI management was then faced with a crescendo of criticism charging that it operated to benefit white business interests and had knuckled under to the state of Wisconsin on the tax issue without considering or working for the interests of the Menominee people. MEI management, largely through its Menominee spokesmen, countered criticisms by citing its success in obtaining massive federal emergency assistance funds through the offices of Wisconsin Senator Gaylord Nelson and then Congressman Melvin Laird, in securing Poverty Program funding in the community's behalf, and in negotiating a lease with Wisconsin to use the Wolf River as a park to bring in needed revenue. However, they pointed out, even these valiant efforts could not save the county or the corporation for the Menominee, while the Legend Lake project promised real salvation. The land loss is minimized with the argument that while only about three percent of the county land is involved, it will contribute a much larger percentage of the county's tax payments. Further justifications for Legend Lake are that it puts to rational use what was largely worthless marshland and that the project will create new employment in the county.

Menominee opponents of Legend Lake argue that the *new* taxpayers' demands will exceed any advantage offered by the expanded tax base. They predict that more land will have to be sold to build and maintain sanitary and other facilities and to provide normal county services for the greatly increased number of residents. And then, more and more land will have to be sold just to keep ahead of the new expenses the project will set in motion. They point out that even if sales can be kept to three percent of all the land, this constitutes nearly ten percent of Menominee County that is not restricted to lumbering. Sale of this land to outsiders removes any possibility of the Menominee ever developing it to their direct benefit and cuts down on land for Menominee who may wish to buy homesites. Furthermore, they point out that an unresolved legal issue exists as to whether the termination legislation really voids their treaty rights to protection from taxation on their land. Nor are the critics of Legend Lake convinced that the project simply involves productive use of poor land. They note that water levels of surrounding lakes have been observably affected and insist that the general ecology of the region is seriously menaced.

These arguments are well worth consideration, but even if one were to accept MEI's defense that the project is based on sound business management and hydraulic expertise, Legend Lake embodies features that give pause to any applied anthropologist. To allow an invasion of 2,500 non-Menominee families, who can afford prime recreation and retirement homesites, is asking for social disaster in a community of perhaps 500 Indian families, over half of whom are on some form of public assistance and who have a high rate of unemployment.

The Legend Lake project has not created a significant number of new jobs for Menominee to date, and even if there are potential jobs in the construction of summer homes for those qualified in the building trades, it can only be a temporary boom until the houses are built. The future appears to hold the dismal prospects of affluent whites taking advantage of a cheap Indian labor pool of domestics and handymen while enjoying a source of quaint entertainment when the Menominee "take pride in their heritage" in annual powwows and similar galas. Legend Lake advertising, arranged for by the developer, goes in heavily for artists' renditions of the befeathered brave paddling his canoe in the moonlight on the Lakes of the Menominees. This is a far cry from the kind of viable cultural identity that once allowed the Menominee to say "our mill," "our hospital," and "our utility companies" in the same breath with "our powwow."

Although MEI management and its opponents both commend Wisconsin's efforts to beef up scholarship opportunities for the Menominee—and these are valuable in principle—as things are going, this hope of the future will do the Menominee little good. Whites will have already moved in and preempted jobs and business opportunities for which Menominee will have been qualifying themselves. From Wisconsin's point of view, it is obliged to do no more than prepare the Menominee for better jobs wherever they can be found in order to keep them off the welfare rolls.

DRUMS

Organized resistance to the events in Menominee County began in late 1969. A Menominee college student became angry at the high-handed treatment she received at the annual MEI stockholders' meeting after asking for a more detailed financial breakdown of the corporation's activities than was provided in published reports distributed to the certificate holders. She turned for help to Wisconsin Judicare, an OEO-funded office that had been recently established to serve the state's northern counties, including Menominee. Judicare soon found itself with an expanding group of Menominee clients and began to provide legal assistance that the Menominee as a group had long needed, but heretofore could not afford. Judicare's initial clientele consisted of Menominee in Milwaukee and Chicago who began holding discussions and informational meetings early in 1970 to learn about MEI's affairs and whether they could effect changes in its policies. In the spring of 1970, a spontaneous protest demonstration against the Legend Lake project was sparked when a group of Menominee were made to leave an accustomed picnic spot by new white land owners. By early summer, all these elements had coalesced into an organization with chapters in Milwaukee, Chicago, and Menominee County which agreed on the name DRUMS, Determination of Rights and Unity for Menominee Stockholders.

DRUMS revived the concept of the traditional tribal council with a series of meetings held in the county while furthering communication throughout the widely scattered tribal membership by means of newsletters. It has picketed at the development project's land sales office in Menominee County, at restaurants in Milwaukee and other cities where prospective Legend Lake property buyers are treated to steak dinners and a sales pitch, and at the offices of the First Wisconsin Trust Company in Milwaukee in regard to its handling of the Assistance Trust, to be discussed later. With the help of Judicare, occasionally assisted by the American Civil Liberties Union, DRUMS engaged in much litigation against MEI directly and indirectly. It was met with swift and fierce retaliation from MEI in broadsides sent to certificate holders, in statements in the press condemning DRUMS, and in various countersuits.

DRUMS is committed to returning Menominee County to federal jurisdiction, restoring Menominee eligibility for BIA services, and restructuring the present political and economic institutions so that the Menominee can administer their own affairs. It is also trying to undo the Legend Lake project in an effort to save as much land as possible and maintain Menominee dominance in the county so that the tribe can make a new start under the new legislation it hopes to obtain from Congress. Demonstrations and litigation to halt the land sales that MEI depends on for survival are also calculated to bring the economic crisis rapidly to a head and thus provoke Congressional intervention before more land is lost.

By late summer of 1970, MEI could no longer dismiss opposition as the outlook of only a small handful of dissidents. Termination would be in effect ten years by the next stockholders' meeting in December, and the certificate holders would have the opportunity of voting to abolish the Voting Trust, thereby gaining direct control in the election of management. DRUMS mounted a proxy fight that came within a hair's breadth of abolishing the Voting Trust, losing on a technicality that the vote required *51% of all the shares of the corporation.* Shares are no longer tidily allocated in lots of 100 to each of the 3,280 Menominee enrolled as of 1954, but rather have been divided and redistributed as a result of deaths and inheritance. Because of pending litigation on voting rights of minors (whose votes are held in trust and voted by the First Wisconsin Trust Co.), the vote was postponed until April 3, 1971, when 72% of the certificate holders voted. A majority voted to abolish the Voting Trust, but this did not constitute a majority of the shares. The count, in terms of people, was roughly a little over 1,100 to abolish the Voting Trust and a little under 1,100 to keep it, but one third of the votes, about 400 (those of the minors and incompetents), to keep the Voting Trust was cast as a block by the First Wisconsin Trust Company. The votes of the minors alone, had they been cast as many of their parents' votes were cast, would have provided the necessary majority of 51% of the shares to abolish the Voting Trust.

The DRUMS proxy fight met with strong opposition from MEI management but had sufficient impact even before the vote was taken to prompt MEI to decide to alter the composition of the trust in order to win support to keep it in effect. Membership was expanded from seven to eleven members, all of whom would eventually be Menominee. Thus, DRUMS had a slate and proxies ready to try for representation on the Voting Trust should they fail to abolish it. DRUMS managed to elect two candidates, both college educated young women, one of whom has a master's degree in social work from Columbia University. Significantly, the First Wisconsin Trust Company did not cast its block vote for any DRUMS candidates and admittedly supported candidates it believed to be in favor of continuing the status quo of termination.

Some Menominee who voted to abolish the Voting Trust and supported the DRUMS candidates do not belong to DRUMS because they disapprove of what have been, all things considered, remarkably peaceful protest demonstrations. MEI also has its supporters among rank and file Menominee who are as distressed as DRUMS members to see any land sold, but they fear DRUMS interference with land sales will only make a bad economic situation worse, and thus they put their trust in the MEI argument that selling a little land will save the rest.

It is safe to say that virtually all the Menominee agree that the termination was unjust, believe they deserve help and restitution as the unwilling guinea pigs in the government's policy experiment, deplore the loss of their land, and want to persist as a people, managing their own affairs and enjoying a decent standard of living. However, where old guard MEI management would agree to put the forest land under tax free provisions while keeping the rest of the land for development, DRUMS argues for a return of the entire county to reservation or similar federally protected status, and this would even include land sold since termination.

The subtle but politically crucial differences between DRUMS and entrenched MEI management became clear on July 20, 1971, when spokesmen from both groups appeared before the Subcommittee on Indian Affairs in Washington, D.C. Both testified in support of pending legislation designed to replace HCR 108, which President Nixon had publicly repudiated on July 8, 1970 as a mistake that created rather than solved problems for Indian people. Both MEI and DRUMS applauded the prospect of a new policy that would oppose termination, and both asserted that protection of still unterminated tribes was not enough—provisions were required to right the wrongs suffered by the Menominee as a result of termination. Testimony by MEI representatives and the Wisconsin legislator who heads the state's Menominee Indian Study Committee pointed with pride to the Menominee's record to date in managing successfully despite tremendous problems and hardships posed by termination, and they requested continuation of Nelson-Laird emergency funds in view of the still precarious state of the Menominees' economic affairs. Representatives of DRUMS pointed to the deteriorating socioeconomic condition of the Menominee people, considered termination an unmitigated disaster, called for sweeping new legislation, and viewed the Nelson-Laird funds as a waste of money to keep termination in effect and perpetuate the corporation-county status quo until the Menominee were destroyed as a people.

CONCLUSION

All of the elements of classic colonialism described at the outset are clearly discernible in the Menominee situation. Once Wisconsin acquired a new territory, the stage was set for the Menominee to provide annual tribute, to be exploited by private commercial interests of the mother country, and even to furnish room for "settlers" clamoring for recreational land where the Menominee are a handy, middle- to lowest-status laboring class. The state was even handed a ready made colonial administration with its traditional "district officers" from business and the professions written into the management structure of MEI and into the county government through its partial dependence on Shawano County officialdom. Wisconsin, in turn, set up its "home office" to the colony, the Menominee Indian Study Committee. No other Indians and no other county in Wisconsin are given such special attention.

The termination plan also provided for a native leadership elite to be responsible to the mother country for collecting tribute taxes, for easing the way for private commercial exploitation, for keeping the natives in line, and for bearing the brunt of the natives' wrathful discontent. Even the native structures that could be maintained under the semicolonialism of the BIA were undermined, destroying whatever controls the people once exercised to make their leadership answerable to them. The restricted choice given the Menominee between separate county status or division among several counties was probably not intentionally cruel, but it proved a useful device to justify colonialism to squeamish people in the mother country by making the Menominee appear to have committed themselves willingly to colonial status by the democratic process of a referendum. MEI then compromised and sacrificed the Menominee interest on the argument that unless they succeeded in bringing the county through its trial period, a worse fate of dismemberment among neighboring counties was in store in which all would be lost.

However, well before 1971, the state had a stake in maintaining the status quo and avoiding the bother of restructuring the new territory to make it pay. It was paying off nicely with the prospect of expanding the white population through land development which would make the county self-sustaining and perhaps even profitable to the total state tax picture. With rising population, new markets can open for the profit of white capital in providing mortgages for home building and supplying the increasing demand for consumer goods in the county. Even if they were wealthy, some 3,000 Menominee could not match the financial allure of 20,000 or 30,000 new summer playground residents. By the time DRUMS mounted protests and a proxy fight, MEI management and Wisconsin reacted with a well-conditioned colonial reflex: stop the trouble makers.

Thus, DRUMS enjoys all the honors accorded uppity natives. Two exemplary, sober and self-supporting Menominee have now served time in the Shawano County Jail for the courage of their convictions; they led the disobedience to an injunction against picketing at the Lakes of the Menominees' sales office. Nor is it surprising that Wisconsin Judicare is threatened with curtailment of funds and must spend time arguing its merits to evaluation boards. Likewise, it is understandable that the white-dominated MEI management and the State of Wisconsin would argue for an infusion of temporary federal aid to the county. It would save Wisconsin from picking up the tab to keep the Indians quiet until they are outnumbered and can be consigned to oblivion as an identifiable community.

This discussion is not intended to criticize Menominee leadership nor to laud the disgruntled rank and file as a matter of partisan principles, but to illustrate how termination has victimized all the Menominee wherever they stand between the two poles of MEI and DRUMS. Termination forced all the Menominee into unhappy roles not of their own choosing which paralyze community action by promoting an appearance of entirely self-serving venality on the part of leadership and of irresponsible destructiveness on the part of the rank and file in their dealings with each other. DRUMS accuses MEI of being "sell-outs" and MEI accuses DRUMS of wanting "hand-outs" as reservation Indians, yet both sides know that the Menominee, like any small society, whether a ministate or a culturally distinctive minority, must make alliances with those more powerful for purposes of their own defense and economic well being. Experienced leaders who have gained important knowledge that could be directly useful to the Menominee, others with knowledge and experience outside the colonial structure that could be equally useful, and the Menominee people as a whole, with their aspirations to persist in dignity, have been prevented from getting together. The social damage done the Menominee by termination is at least as great as the substantial, quantifiable material damage. What can be done? One alternative is to make it possible for the Menominee, all of the Menominee, to tell us what they have decided upon as in their best interest, and then support them in accomplishing it. Real dialogue has begun to replace the arguments and exchanges of allegations between Menominee leadership in MEI and DRUMS, and both recognize the need for total involvement of the Menominee people. But the Menominee face an indifferent Congress, self-serving and powerful business interests, and an equivocal state government that would like to be sympathetic to a clearly discriminated against minority, but one that claims a tremendously valuable piece of state property and very few votes.

ADDENDUM, JUNE 1972.—Since this article was submitted late in the fall of 1971, an election to fill four positions on the MEI Voting Trust has been held. DRUMS swept the slate by an overwhelming margin, returning their two incumbents and adding two more representatives. Old guard MEI incumbents are still in the majority on the Voting Trust, but, with the votes of the DRUMS members, a DRUMS person was elected chairman of the Voting Trust and subsequently four DRUMS candidates were elected to the Board of Directors. This growing unity among the Menominee is reflected particularly in the effort first promoted by DRUMS, and now supported by MEI and the Menominee generally, to restore reservation status to Menominee County.

Members of the Wisconsin delegation in Congress, working closely with legal advisors from Judicare and the Native American Rights Fund and the Menominee people, introduced the "Menominee Restoration Act" (HR 14556; S 3514) in both the House and Senate on April 20, 1972. However, the Menominees' long struggle just to get such legislation considered and introduced must be sustained with an even greater effort to get the bill passed. Although few in Congress today would openly advocate termination, there is strong evidence of sentiment that while the Menominee case was perhaps an unfortunate mistake, it is one that is best simply forgotten rather than rectified.

A coalition of Menominee supporters, The Committee to Save the Menominee People and Forests, is now in process of formation and includes nearly a dozen national Indian and public interest organizations. The cochairmen are Philleo Nash, former commissioner of Indian Affairs, and LaDonna Harris, president of American Indian Opportunity, whose offices serve as headquarters to the Committee (1822 Jefferson Place, NW, Washington, D.C. 20036).

Despite these encouraging developments, the threat to the Menominees' future will mount if the Restoration Act is delayed in passage, let alone not passed at all. Aside from the Legend Lake project (which is now moving toward negotiations between the developer and MEI to terminate the contract), private parties are suddenly making offers to buy choice plots on the reservation from individual Menominee owners. MEI has first right of refusal in such negotiations by Menominee to sell their land, but MEI's offers are woefully inadequate to meet the fair market price of the land involved. It is hard to escape the conclusion that the flurry of overtures to Menominee land owners is spurred by the pending legislation which would remove the opportunity to acquire Menominee land.

At this time, many Menominees are faced with the prospect of losing land through tax default and the possibility that it might then be sold to outsiders anyway, with no profit to the Menominee owner. The situation is highly reminiscent of the kind of advantage whites took of Indians as a result of the General Indian Allotment Act of 1887—the irony is that the Menominee had managed to hold out against allotment. Their relative prosperity prior to 1954 can be traced in large measure to their having an undivided, tribally held reservation.

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Mr. MEEDS. I just have one general question. Do you think if this bill passes and some type of government is established within this county by the Menominees—generally by the Menominees but which would also be open to any white resident of the county—that they would be able to handle the matters such as highways, schools, things like that?

Dr. LURIE. I have no doubt about it that they have been able to survive against fantastic odds to this point. It certainly speaks for their ability.

Mr. MEEDS. Thank you, very much.

The gentleman from New Mexico.

Mr. LUJAN. I just want to make an observation that perhaps there isn't that difference between the eastern and the western Indian that you talk about. Yesterday I went into the kitchen as I normally do and we were talking about what we would eat today, and they said the traditional Indian food. I started telling them that at home that would be chili, posole and things like that, and she said, well, no here, we're going to have some waupenimuk. I lifted the top of the pan today and saw that waupenimuk is the same thing we call posole, so maybe many of the differences between east and west are more semantic than anything else. [General laughter.]

Mr. MEEDS. Thank you very much, Dr. Lurie.

The Chair will announce that we're going to have one more witness before lunch and we're going to break for lunch and come back with the few remaining witnesses we have after lunch.

The last witness prior to lunch is Mr. John Fossum, who is chairman of the Menominee County Housing Authority.

STATEMENT OF JOHN FOSSUM, CHAIRMAN, MENOMINEE COUNTY HOUSING AUTHORITY

Mr. MEEDS. I assume that you either want to eat or get under way, and that you will present your statement with dispatch.

Mr. FOSSUM. Chairman Meeds, Congressman Lujan, Mr. Froehlich, I am chairman of the Menominee County Public Housing Authority and also a member of the Menominee County Board of Supervisors and I am the vice chairman of the Menominee County Board.

Mr. MEEDS. Mr. Fossum, do you have a prepared statement?

Mr. FOSSUM. I do

Mr MEEDS. Do you have copies?

Mr. FOSSUM. I certainly have.

Mr. MEEDS. Would you make them available to the committee, please?

Mr. FOSSUM. Yes.

The Menominee County Housing Authority was formed in June 1967, for the purpose of upgrading the low standard of housing in Menominee County.

$863,000 was granted the Menominee County Public Housing Authority in the spring of 1968 for the construction of 50 units in the county. Construction of the 50 units was started in June of 1968. The houses were occupied as they were completed and on May 1, 1969, all the units were completed and immediately occupied.

The Menominee County Housing Authority, realizing the upgrading to the community and the boost in morale of the people of the county, made another application for funds of additional 100 units. This project was to accommodate additional low-income families and those above the poverty level in the middle-income bracket.

In the spring of 1970, the Menominee County Housing Authority was notified that a grant of $1,535,816 had been authorized by the U.S. Department of Housing and Urban Development for the construction of an additional 66 living units in Menominee County. The contract for construction was awarded to Forestedge, a subsidiary of Menominee Enterprises, Inc.

We were unable to get any units in the South Branch area because there were no provisions for sewer and water. Sewer and water facilities were a requirement at that time. At the present time, we have occupancy in 46 of the new projects. We have 20 more to complete by the summer season. However, we have application for 140 families in the low-income brackets and only 66 units.

The economic conditions in the county practically prohibits or eliminates any low-income people from acquiring loans to build their own homes.

One of the bad aspects is that many applicants are unable to qualify for these homes, because we usually go for the high rental pay in order to keep our housing authority in solvency.

When the government terminates all the Federal programs in Menominee County, it will practically eliminate the unemployed from qualifying for a home, because of no income. Then, they will only qualify under the welfare program.

We are presently having a serious problem in collections of rent because of the high percentage of unemployment in Menominee County. The present arrears are $10,000 for a period of 3½ years. This is really a very sad experience, because when things get too bad, we have no other recourse but eviction. Then, these people with their children are put out on the street.

The Menominee County Housing Authority, in order to keep in solvency, has to have rental subsidies in order to keep up the low-income rental program.

Mr. Chairman, that concludes my statement.

Mr. MEEDS. Thank you very much.

Is the public housing authority run entirely by Menominees?

Mr. FOSSUM. That is right.

Mr. MEEDS. How many people are involved in it?

Mr. FOSSUM. The committee has five, and we have one executive director and many of the homes that we've got, it's almost impossible for one man to keep, you know—and supervisory county capacity over these homes.

There have to be subsidies to keep the housing authority going. The committee acts on a gratis basis. We don't receive any pay whatsoever and we have no—any time we need anything we still have to go on the outside because we have no lawyers or any professional people amongst our own tribe, so we have to go to the outside and it usually costs us.

Well, it's not small fees. It's a large fee.

Mr. MEEDS. You say in your statement that a contract for construction of 66 units was awarded to Forestedge, a subsidiary of Menominee Enterprises, Inc.

Is that the Forestedge lumberyard that we see when we come in?

Mr. FOSSUM. Yes, sir.

Mr. MEEDS. How many employees are there of that?

Mr. FOSSUM. At the start we tried to reach an agreement with the contractor that it would be mostly Indian people.

Mr. MEEDS. I think that's all the questions I have.

Mr. LUJAN. I have no questions.

Mr. MEEDS. OK

The Committee will be in recess until 1:30.

[Whereupon, the committee recessed, to reconvene at 1:30 p.m., the same day.]

AFTERNOON SESSION

Mr. MEEDS. The Subcommittee on Indian Affairs of the Full Committee of the House of Representatives on Interior and Insular Affairs will be in session for the taking of further testimony on the legislation before us, H.R. 7421.

If there is no objection the first witness who was to be with us, Mr. Randy Rieter, has asked that his statement be inserted at this point in the record.

Without objection, so ordered.
[The statement follows:]

STATEMENT OF RANDY RIETER, CHAIRMAN, MENOMINEE COMMUNITY ACTION PROGRAM

Congressman Meeds, Congress Lujan, honored guests, and fellow Menominees my name is Randy Rieter, A Menominee, and Chairman of the Menominee Community Action Program.

MENOMINEE COMMUNITY ACTION PROGRAM

The impact of the Menominee County Community Action Program is dramatically documented by the statistical reports before the committee members. Specifically because of the low economic base, services that communities normally provide are lacking to a very large degree.

Without the transfusion of massive federal monies from the Department of Labor, Office of Economic Opportunity, and Health, Education and Welfare, the unemployment rate of Menominee County would undoubtedly be the highest in the State of Wisconsin, (approximately 40%). In addition to income maintenance, those basic services now provided through Menominee County Community Action Program would be nonexistant.

The following areas would be seriously curtailed if not all together stopped—Senior Citizens, Recreation, Education and Counseling, Head Start Economic Development, Community Organization, Outreach and Mainstream.

With the cutbacks and in some cases the complete phase-out of federal support of stated programs, it is imperative that Congress address themselves to the plight of the Menominee people and vote favorable for the restoration act which would insure the continuance of the above stated programs. I would also like to read the following resolution passed by the Community Action Governing Board of Directors, May 24, 1973.

Whereas, the Menominee Restoration Act has been introduced in the House of Representatives and the Senate of the United States and:

Whereas the Menominee County Community Action Program Inc. has gone over the bill as introduced;

Now therefore, be it resolved that the Menominee County Community Action Program, Inc. endorses the Restoration Act with the following exceptions:

1. We object to the amendment calling for a two year transition period in Section 6 (A)
2. We object to the deletion of the clause in Section 5 (A) which states that "any constitution or bylaws adopted pursuant to this section shall prohibit the sale of all land within the limits of the tribe's reservation."
3. We request that the treaties of 1854 and 1856 be recognized retroactive to the termination date.

MENOMINEE COUNTY COMMUNITY ACTION PROGRAM, INC.—IMPACT STUDY

Category	C.A.P.	I.H.S.	O.M.	Totals
No. of people on payroll	17	25	53	95
Annual wage cost	78,883	97,119	177,960	353 962
F.I.C.A. tax	4,062	5,002	9,165	18 229
Federal income tax	7,383	9,090	16,657	33,130
State income tax	1,767	2,175	3,986	7,928
Unemployment compensation ins	849	1,045	1,915	3,809
Workmen's compensation ins	834	1,150	2,107	4,191
Programmatic costs—Nonpersonnel	18,644	22,411	21,660	62,715
Average weekly payroll	1,226	2,037	2,842	6,105
Average weekly earnings (employee)	72	82	54	64
Projection unemployment benefits [1]	20,808	34,850	48,654	104,312
Average weekly welfare benefits	47	47	47	47
Projected welfare costs [2]	40,548	61 100	123,532	232,180
Non-Federal contributions	29,999	34 957	25,500	90,456

[1] Based on 34 weeks

[2] Based on 52 weeks.

EMPLOYMENT/UNEMPLOYMENT ANALYSIS—DECEMBER 1, 1967 TO JUNE 1973

Date of survey	Number of persons employed	Number of persons unemployed	Total work force	Females	Under 22 years of age	22-44 years age	Rate of employment (Percent)	Explanation
December 1967	610	170	780	336	174	378	21.8	Col. No. 1—Employed in all areas, for example, mill, county, Federal programs, private, so forth.
June 1968	580	220	800	319	165	360	27.5	Col. No. 2—Of total known work force.
August 1968	570	180	750	314	162	353	24.0	Col. No. 3—Total of col. no. 1 and col. no. 2.
October 1968	550	160	710	303	157	341	22.5	Col. No. 4—Portion of col. no. 1.
December 1968	550	170	720	303	157	341	23.6	Col. No. 5—Portion of col. no. 1.
February 1969	550	175	725	303	157	341	24.1	Col. No. 6—Portion of col. no. 1.
April 1969	530	190	720	292	151	329	25.5	Col. No. 7—Col. no. 2÷col. no. 3
June 1969	520	170	690	286	148	332	23.7	This analysis prepared on the basis of figures furnished by the Wisconsin State employment service—February [illegible], 1973.
November 1969	520	170	690	286	148	322	23.7	
December 1969	420	160	580	231	120	280	28.1	
June 1970	440	160	[illegible]	242	125	273	26.4	Robert I. Stennett Financial Administrator N.C.C.A.P., Inc.
December 1970	450	160	610	248	128	279	25.7	
December 1971	460	170	630	253	131	285	26.5	Note: Figures shown do not reflect in-migration or out-migration or seasonal adjustments.
June 1972	450	180	630	248	128	279	28.1	
December 1972	500	160	660	275	143	310	24.7	
*June 1973	400	260	660	220	114	248	39.3	*Projected.

Our next two witnesses will come together.

Mr. Dale Druckrey, social services director, and Mr. Louis White, Sr., director of the drugs and alcoholism program.

STATEMENTS OF DALE DRUCKREY, SOCIAL SERVICES DIRECTOR, AND LOUIS WHITE, SR., DIRECTOR OF DRUGS AND ALCOHOLISM PROGRAM

Mr. MEEDS. Are you going to proceed first, Mr. Druckrey?

Mr. DRUCKREY. Yes, sir.

Mr. MEEDS. Please do so.

Mr. DRUCKREY. Mr. Chairman, members of the committee, my name is Dale Druckrey. I'm the director of the Menominee County Department of Social Services and I have been working with that department for 7 years.

The Menominee County Department of Social Services administers aid and services to the residents of Menominee County under the supervision of the State Department of Health and Social Services and within policies as specified by the Menominee County Board of Social Services. The board is appointed by the county board and meets on a monthly basis. There are three county board members and two citizen members of this Board of Social Services.

Our Department administers the categorical aids, the food stamp program, certifies medical recipients, certifies Judicare recipients and provides services to the juvenile court and various services to adults, families, and children in the county. There are presently 22 employees in the department, including the following positions: Director, social work supervisor, seven social workers, basic services supervisor, four case aides, administrative assitant, two clerks, typist, two homemakers and two social service aides.

On the following pages are listed the expenditures of the department over the past several years and also for the month of March 1973. The figures appear to indicate a trend of increasing costs.

A significant factor in the costs in past years has been the availability of funds under Public Law 89–653, referred to as Nelson-Laird Funds. This act provided Federal funds of $100,000 per year for 4 years to assist Menominee County to meet their share of welfare expenditures. These funds were available beginning in 1966 and were depleted by 1971. Therefore, the county was faced with the burden of assuming these costs after 1971.

The present county share of expenditures is approximately 10 percent for the categorical aids and medical assistance, and 6.5 percent for administrative expenses. In March of 1973, 684 persons were receiving public assistance (categorical aid) in the amount of $52,617 and medical assistance of $28,416 was paid for 316 persons. General relief is not included in our department figures, as this program is administered separately under the town of Menominee.

I would like to say that I appreciate and am grateful for the opportunity to work with and for the citizens of Menominee County, and I strongly urge legislation which would preserve the Menominee lands and the culture and also to restore Indian status to the Menominees and which would provide financial and technical assistance which would make more jobs available to the people of Menominee County, and also which would improve educational opportunities.

Thank you.

Mr. MEEDS. Thank you very much, Mr. Druckrey.

Just one question. Will the passage of this legislation cost any money in terms of your Department?

Would there be more or less expenditures of money by the passage of this act?

Dr. DRUCKREY. I would assume it would mean less. I'm not familiar with the details of the legislation.

Mr. MEEDS. Why do you assume that, sir?

Mr. DRUCKREY. I assume there would be aids from the Bureau of Indian Affairs, and also the Indians would be considered as Indian status. They would receive certain aids that they're not eligible for at this time, welfare aids.

Mr. MEEDS. Probably by some health funds and things like that?

Mr. DRUCKREY. Yes.

Mr. MEEDS. You have, as you say, 22 people with the Department of Social Services, right?

Mr. DRUCKREY. Yes.

Mr. MEEDS. How many of those are Menominees?

Mr. DRUCKREY. Thirteen are Menominees.

Mr. MEEDS. Thirteen out of 22?

Mr. DRUCKREY. Yes.

Mr. MEEDS. How many are Indian altogether?

Mr. DRUCKREY. Thirteen are Indian and nine are non-Indian.

Mr. MEEDS. That's not quite two-thirds.

You are the Director of the Department?

Mr DRUCKREY. Yes.

Mr. MEEDS. Who is your immediate assistant?

Mr. DRUCKREY. An administrative assistant and two supervisors.

Mr. MEEDS. Are they Indians?

Mr. DRUCKREY. The administrative assistant is Indian.

Mr. MEEDS. Thank you.

The gentleman from New Mexico.

Mr. LUJAN. Thank you, Mr. Chairman.

In calendar year 1970 the assistance dropped considerably in almost all categories. Why was that?

Mr. DRUCKREY. I wouldn't be able to answer why it was. Perhaps because there were more people employed, possibly; it's difficult for me to really say why.

Mr. LUJAN. There's quite a bit of change for that calendar year. It just kind of sticks out. And then it was increasing up to that point, and then there was the drop, and then there continues to be an increase.

No question, Mr. Chairman.

Mr. MEEDS. Thank you.

Mr. White, would you like to proceed?

Do you have a prepared statement, Mr. White?

Mr. WHITE. Yes. I have no copies, though.

Due to the complexity of the problem, the situation that I am about to present, I just scribbled out a few notes in order to stay within—so I wouldn't ramble on. It will take me only about 5 or 6 minutes.

Mr. MEEDS. Fine. Please proceed, sir.

Mr. WHITE. When the White man came we had total unemployment in the north and south America. We had no factories, offices, schools, jails or prisons. We had no signs that said keep out, no private roads and no trespassing because nature cannot be regulated.

Indian tribes formed a cooperative way of life to function in harmony with nature. We did not own land; we just used it. The earth was our mother.

American Indian culture is unique in its nature, today, because it has endured almost 500 years of exposure to the predominant Euro-American culture. The worth of any culture lies with the value of that culture. In today's society the American Indian finds himself engaged in an economy which calls for highly competitive ability with the ultimate goal understood to be financial success and upward social mobility.

A number of Indian people have developed a deep hostility toward society as a whole. There is little doubt that a serious conflict exists for the Indian, a conflict manifested by growing alcoholism problem.

Alcohol is a complex illness recognized by the medical profession as such. We've covered the psychological, medical, social, cultural and religious areas.

It is a drug with many appealing properties. It relieves anxiety and tension. It is an anesthetic which can relieve physical and emotional pain. It helps to release inhibitions.

It is no wonder, then, that people find themselves in a chronically stressful situation which can be temporarily relieved by drinking alcohol, gradually begin to depend upon alcohol as a source of relief. Previous to the Hughes program the national figures on alcoholism for problem drinkers were 6 percent of the total population. Since surveys have been made, it has been quoted at 9 to 12 percent, as a more realistic figure.

As director of the alcoholism program of the Great Lakes Tribal Council for 2 years I have had occasion to work with this alcoholism on every reservation in Wisconsin. The Menominees are not a member of the council. Thirty percent to 50 percent was arrived at by personal contact and by inquiries of persons who in my estimation had a knowledge of the problem.

Since my involvement in Project Phoenix 6 months ago, I have had the opportunity to visit Indian boys at penal institutions in the northern half of the State. 21,000 is the general figure of our Wisconsin American Indian population, of which we are 3,000; that is seven in one.

Indians within Wisconsin are Menominees. Yet, in the northern half we have 41 which are 13 are Menominees. That is a definite figure. All tribes are alcohol related. That is 33 percent, a good 33 percent are Menominees that are in the institutions due to crimes, and that, as I said before, is alcohol related, the crimes are.

I hope to someday see a change. The first step toward survival in an alien environment is to be proud of who you are. This could start within our educational system.

Now, I have a little piece I clipped out of a magazine that was a statement by Governor Lucey about land:

If the white man had shared the belief of the American Indian that land is everybody's inheritance, we might be better off today. If civilized society is to be civilized by roads and hot dog stands and miles of urban blight, then there are many people who would rather choose a way of life of those who used to be called the savage.

That is all.

Mr. MEEDS. Thank you very much, Mr. White.

Do I understand correctly from what you said, that the Memoninees who are approximately one-seventh of the entire Indian population in the State, have 30 percent of the people in institutions for alcoholism?

Mr. WHITE. Thirty-three percent.

That is not all the institutions. That's just the northern half. That's the reformatory and the three prison camps. I visit them every month.

Mr. MEEDS. Thirty-three percent of the Indian population are Menominees.

Mr. WHITE. Right.

Mr. MEEDS. Are people in prison camps for alcoholism?

Mr. WHITE. No. They're there for crimes.

Mr. MEEDS. Then 33 percent of the total Indian population in institutions for crimes are Menominees.

Mr. WHITE. How was that again?

Mr. MEEDS. Maybe I've got you fouled up now.

[General laughter.]

Mr. MEEDS. Do I understand correctly that 33 percent of the Indian population in these institutions about which you speak are Menominees?

Mr. WHITE. Right.

Mr. MEEDS. And the institutions about which you speak are prisons?

Mr. WHITE. Right

Mr. MEEDS. Or is it criminal institutions?

Mr. WHITE. Right. Penal institutions.

Mr. MEEDS. Well, how do you hook that to alcoholism?

Mr. WHITE. They were drunk when the crime was committed.

Mr. MEEDS. All of them?

Mr. WHITE. Practically all of them.

Mr. MEEDS. It's pretty hard to pick a safe when you're drunk.

Mr. WHITE. Well, there's no safe pickers.

[General laughter.]

Mr. WHITE. It's all the way from murder to assault, stealing cars, and such things as that.

Mr. MEEDS. But you're telling me now that all of them were drunk when they committed these crimes?

Mr. **White**. Well, they were motivated by alcohol, I would dare say, right, because I have interviewed every one of them.

Mr. **Meeds**. That's how you happen to know there are no safe pickers?

Mr. **White**. Right.

[General laughter.]

Mr. **Meeds**. Thank you very much.

The gentleman from New Mexico.

Mr. **Lujan**. What brings about this situation? Why the bigger proportion from the Menominees?

Mr. **White**. Well, as I stated earlier that alcoholism being a complex illness involves a cultural area.

Mr. **Lujan**. Alcoholism is a worse problem with the Menominees than any other Indian tribe?

Mr. **White**. It appears to be, the way it looks. It causes a dilemma, the clash of the cultures.

Mr. **Lujan**. Because they are not a reservation?

Mr. **White**. Well, I wouldn't say that. Well, maybe so, too. But they are more prone to be with the white culture than most of the rest of the Indian tribes under our situation.

Mr. **Lujan**. Would that change if it were a reservation?

Mr. **White**. I wouldn't dare say if it would change or not. Alcoholism is something that is unpredictable.

Mr. **Lujan**. Is the unemployment higher, perhaps, in the Menominee area than in reservations?

Mr. **White**. I wouldn't say the unemployment is higher compared to the other reservations.

Mr. **Lujan**. Thank you, Mr. Chairman.

Mr. **Meeds**. I have one more question.

Are these figures available for what the percentage of Menominees in these same institutions was prior to 1954?

Mr. **White**. I never did get those figures, but I was asked that same question yesterday and I thought that was very interesting.

Mr. **Meeds**. If we are to infer some relationship between alcoholism and penal institutions and being a Menominee and the question of restoration or termination, it would seem to me it would be necessary to have those figures. Could you try to find them for us?

Mr. **White**. I sure will.

Mr. **Meeds**. And if you do, would you forward them to us?

Mr. **White**. I sure will.

Mr. **Meeds**. And if all those ifs come about, I would ask unanimous consent that they be made a part of the record at this point, if there is no objection.

Mr. **Lujan**. No objection.

Mr. **Meeds**. So ordered.

[The information referred to follows:]

PROJECT PHOENIX,
Milwaukee, Wis., June 8, 1973.

CONGRESSMAN LLOYD MEEDS,
House Subcommittee on Indian Affairs,
Washington, D.C.

DEAR CONGRESSMAN MEEDS: In regard to your request that I send you the number of Menominee Indian inmates previous to termination. I have inquired through Social Services, in the walls at the Wisconsin State Reformatory, and was informed that there was no way to obtain that information. Indian inmates are never specifically catagorized in regard to their tribe.

I have called Division of Corrections at Madison, Wisconsin, and they also said that information, such as that, was not available. I might add that the social service within the State Reformatory were not aware of this figure and they were very surprised. I knew it was high, just from causal observation. this is what prompted me to investigate the present situation in regard to numbers.

Sincerely,

LOUIS (SI) WHITE.

Mr. MEEDS. The gentleman——

Mr. DRUCKREY. Mr. Chairman, I have some information here that might help answer the decrease in the amount of assistance in 1970. The State regulations were changed, which discontinued assistance to stepchildren and children over 18, so there were less people eligible for assistance because of the State regulation.

Mr. LUJAN. And then were they reinstated?

Mr. DRUCKREY. Yes. Partially reinstated.

Mr. LUJAN. Thank you.

Mr. MEEDS. Thank you very much, gentlemen.

Mr. Grignon.

STATEMENT OF JEROME GRIGNON

Mr. MEEDS. Mr. Grignon represents the Menominee Council of Chiefs.

Mr. GRIGNON. Well, first let me say, Mr. Dickey is up with me presenting our own statement. I am not able to say that our statement is the Chiefs'. The reason I asked Mr. Dickey to come up, he was the chairman of the advisory council for the termination. He was one of them, and I was the last one before termination, and also Mr. Dickey has served on the board of directors both of us and when we were terminated, and we felt that maybe some of the questions you asked were not totally answered and we would like to have the record show what the tribe tried to do to be prepared for the termination.

I believe, Mr. Chairman and members of the committee, our own Congressman, Mr. Froehlich, fellow Menominees and guests, I believe it was your wish a while back, Mr. Chairman, to more or less sum up the report.

Mr. MEEDS. Please.

Mr. GRIGNON. Which I will try to do.

Mr. Chairman, I was able to get a copy of the report of the BIA which was requested by the Committee on Appropriations and the Interior Committee. As I know, and was in contract with the people that made this survey.

My questions will more or less bear on their report, and I have no reason to believe that they are not actual facts.

I believe the summation and the highlights are (a) economic situation, number one, employment, number two, income, number three, taxes, number four, education, number five, health, number six and housing. Then (b) Menominee Enterprises, Inc. and (c) was land.

This gives to your committee and the Menominee Tribe factual evidence to justify the need for Congress to act immediately to try to resolve the Menominee problems.

First, Mr. Chairman, may I say that one of my grave concerns at the present time is that on January 1, 1974, the Menominee Enterprises, Inc. voting stock becomes negotiable and control of the corporation and thus of the land could well pass into the hands of non-Menominees even though MEI has first option. I believe that we're not talking here in a year or so. We're down to where we're talking months, and I think it's a real grave situation.

Then, Mr. Chairman, I would like to ask—I know our Council that wrote up the bill had some intention—it was just in reading the report of the BIA that this thought occurred to me and I would like to ask this question in regard to H.R. 7421 and ask the legal counsel, is the language sufficient to repeal all acts and amendments dealing with the termination of the Government's supervision of the Menominee Tribe? I ask this because I notice in the BIA report they specify the act plus all the amendments. This is the question I was asking.

Mr. Meeds. I think the point is well taken.

Mr. Grignon. I would like to ask the question in regards to restoring the rights of the Menominee Indian Tribe's programs and services in other fields beside those services in the fields of health, education, and welfare, credit, roads, and law and order, and these which were all specified in the termination act.

Now, I just named some other programs that the Government has for Indians that are under the Government supervision, especially creating jobs, setting up industries, workmens' compensation, general accounting services, and programs to raise the standard of living.

My question is, is it necessary to have language in there or does the present language guarantee us——

Mr. Meeds. It's our feeling that it does, sir. What we're talking about here are programs that apply to Indians because they're Indians, and other programs that you mentioned apply to Indians because they might have a lower standard of living or some other reason, but not because of any special trust relationship of the Federal Government. They're either covered by treaty or that trust relationship, and we feel that this adequately covers the subject.

Mr. Grignon. Mr. Chairman, as I'm in the dark as to how the stocks and bonds are to be handled, I've been contacted by several Menominees who are greatly concerned.

Is there adequate language or should some separate language be inserted to resolve this problem? I believe it's going to be a serious problem.

Mr. Meeds. We think so too, and there were some questions raised yesterday that indicate that it's going to take further study.

Mr. Grignon. Thanks, Mr. Chairman.

Mr. Meeds. That doesn't mean it's going to be studied to death. We're not going to have the paralysis of analysis.

[General laughter.]

Mr. Grignon. I would, Mr. Chairman, at this time——

Mr. Chairman, after reviewing supporting statements and the BIA report I firmly believe that the Congress must act immediately to save the Menominee Indian tribe from certain disaster. As the BIA report states:

> Prior to termination, the land of the Menominees was held in trust by the U.S. Government and was not subject to property taxes. Without this the mill was sucessful and the tribe was able to pay for most of the Federal services which it received. However, with termination the trust status ceased and all BIA services were halted. Faced with providing their own services and paying the property tax, the tribe was unable to keep pace. Thus, a massive infusion of public funds was necessary. The assistance ended, however, in 1971 and the tribe is now without substantial aid. This is reflected in the financial status of the MEI which with its declining net earnings indicating its uncertain future it is now estimated that without massive support Menominee Enterprises, Inc. will be out of operation within 2 years. Restoration of the trust status and extension of the BIA services would eliminate the tax burden and make MEI a viable economic unit. The profits from the mill could be devoted to providing services and bring about an economic development of the tribe rather than be consumed by the taxes. In addition, the outlays of public monies would decrease by some $0.6 million in the first year alone and as the situation improves the reduction will be even greater.

I inserted this quotation because I believe the sawmill is the bread and butter of the majority of members of the tribe. The MEI could use this tax money. It could provide 250 jobs. It could provide more jobs by being able to go into processing wood fibers. Today we only go into the first stage, that is, making lumber and chips, and there is a great potential for jobs and added income in going further in the process of fiber.

Phase two would be processing lumber into components. Phase three would be assembling components and sale of the finished product.

I inserted that, Mr. Chairman, because I had the opportunity to be able to study—but first, Mr. Chairman, I would like to make the statement that before we were terminated in appearing before the Indian subcommittee in the Senate we presented the tribe and we were able at that time to have a survey made by an engineering consulting firm from out near your country, Cornwallis, Ore. And he was at the time modernizing one of our neighboring mills and so it was felt that he would be the man to do it.

Now, he did make this survey and it stated in the survey we presented to the committee, the committee—and Mr. Mader presented it, as I recall, most of it was that he stated from an economic standpoint that our sawmill was obsolete; that at that time they were using new mills that required only probably about a third of the amount the Menominee were using and you could bring the cost of the sawmill down to a level where you could compete.

So, his statement was that we had to do that in order to be competitive with our neighbors and he went throughout our plant and found that we needed new boilers and at that time we didn't have a chipper and so forth, so we did present our plan and we did have the money to do it, but at that time, Congress, I remember, at the hearing—I being chairman of the Board—that if we did, if we extended termination, that I thought the tribe would go along with the idea of sacrificing their payments. And I remember at the time—I don't recall the exact figures, but I knew that we had a 4-year period.

In a 4-year period we would have over $1 million to put in to bring our mill up to measure from an economic standpoint to be competitive, and unfortunately Congress didn't see that at that time. They were very much determined to go through with their plan and that was to get out of the Indian business.

I state that because you asked, and then the fact that the Bureau of Indian Affairs would not, even though we did present some programs as you recall before termination, where the Secretary of Interior was responsible for the operation, we were in an advisory capacity. We couldn't say, well, we're going to have this program or we're going to do this, or we want this done, and even though we did have the money to do it.

Mr. MEEDS. Mr. Grignon, do I understand your statement to be that with the money that would be saved if this type of bill was passed from taxation, that the mill could be modernized, the additional processes could be added which would add another 150 to 200 jobs?

Mr. GRIGNON. Let me state this to you, Mr. Chairman. I was on the Board and was the Chairman for three terms. We were always in a position of trying to meet the tax burden plus our obligations so it was necessary to find a way to meet them, to come up with the money every year, so we were talking at that time and we went down to one of the plants and they showed us this little piece of wood that would be put in the chips. It was probably 1 inch high and 1 inch wide and about 7, 8 inches long, and he told us, he said, I don't know if you'll believe this, but here is something he said.

He was only making components, and he said, maybe you don't believe this, but this thing cost me 2 cents, but he said I process this and make a component. It costs me 8 cents to do it and I get 12 cents, but a profit of 2 cents.

Now, I was with the tribe at the time and we went through to see with our own eyes how it was done, and the fact that if you weigh that you would have to put quite a few zeroes before you would get that 1 cent.

Mr. Mader also told us that the money was not as far as we want, but more money was going into phases 2 and 3. And the other question, I did go to another mill that went to the end results and I said—I don't want to quote their figures but he said—I asked him about jobs and he said there was 100-plus, that he said, in our same capacity, just to make lumber and chips, but he said there was 400-plus to make both the end results. That's why I put it down, phases 2 and 3.

Mr. MEEDS. What time does the mill close in the afternoon?

Mr. GRIGNON. I think at the present time they're closing at 3:30.

Mr. MEEDS. So if we got over there at 4:30 we wouldn't be able to watch them in operation?

Mr. GRIGNON. They're not working on Saturday.

Mr. MEEDS. How many hours do they operate, 40 hours a week?

Mr. GRIGNON. I believe it is 40 hours.

Mr. MEEDS. Isn't there pretty substantial demand for lumber right now?

Mr. GRIGNON. There's a very good demand.

Mr. MEEDS. Why are they not operating more, do you know?

Mr. GRIGNON. I don't know. I know they are going to two shifts. I think the mill is going down for general repairs very shortly, but I understand when they start up again they will have two shifts.

Mr. **Meeds**. Thank you.

The gentleman from New Mexico.

Mr. **Grignon**. I would like to turn to Mr. Dickey. He would like to make a statement.

STATEMENT OF GORDON DICKEY

Mr. **Dickey**. Mr. Chairman, members of the committee, my name is Gordon Dickey, a member of the Menominee Tribe. I've served several terms on the tribal council and also served on the board of directors.

Presently I am on the county board and the town board. I am here as an individual. I do not have authority to represent anyone else except myself.

I would like to back up a little bit in the history of the termination and point out that former Commissioner Dylan S. Meyer visited the Menominee Reservation in 1952 and this was the first real thrust of termination policy by the Department, when he warned us that we would be expected to work on a termination plan.

In June of 1953 Senator Watkins visited the reservation and again urged us to work on a termination plan, and advised us that unless we did it he expected Congress to introduce a bill of their own. The tribe at that time adopted the policy, and a principle of termination, but in July of 1953 when they learned of the proposed amendments by Senator Watkins a meeting was held in which one of the largest meetings I ever intended the tribe voted to instruct the delegation in Washington and Members of Congress and attorneys to drop their per capita payment rather than accept the amendments proposed by the Senate Indian Committee. And that vote was 197 to nothing.

Just a couple of short weeks after Senator Watkins had visited the Menominee Reservation in 1954 there was a hearing before the Joint Committee of the Senate and House on Indian Affairs, and during the course of this discussion and this debate it was pointed out, we pointed out to the committee that what this tribe needed was a more fruitful utilization of its raw materials, diversified industry, new employment opportunities and new sources of income before they would be in a position to carry the tax budren that would be theirs to carry, after termination.

This, Mr. Chairman, is all a matter of record. In addition to that we had hopes that by getting the 5 years instead of the original [illegible] years proposed by the Senator, that we would find a more favorable committee and a more favorable Congress. It's taken 19 years to find a more favorable committee.

Incorporated in that same record, the veneer plant proposal in detail, a proposal that was never approved by the Department, in addition to that the tribe had proposed the installation of a new steam plant which included a steam turbine, generating power from the waste material coming from the sawmill and at that time both the new steamplant and the powerplant would have cost the tribe approximately $450,000. Today, it was absolutely necessary to install a new steamplant without a steam turbine connected with it in excess of $600,000.

Today also we must guarantee Wisconsin Power & Light Co. a minimum of $35,000 a year in order to have the necessary power to operate the plant and provide power to the community.

The original proposal by the Menominee Tribe was never seriously considered, either by the department or by the committee, and that proposal was that the tribe take step by step various departments, especially the social services, to see if they could properly handle those programs. But the Secretary of Interior remained in the picture so that if sometime along the way we failed, the Secretary could pick it up. This never became a reality.

Today we are faced with a very critical situation, and unless the Congress of the United States takes some action this situation could be more effective than all the Indian wars put together because this tribe could be destroyed if the stock were to go on the market, and that's only a few short months away.

Now, we talked about the present situation, fine, we have a lumber market that is unbelievable and between the lumber market that is now facing us, plus the various poverty programs that were instituted and in operation, we have been able to survive. Without those two factors, this company and this tribe would be bankrupt.

The question was raised about the operation of the sawmill. Around the first of March it was breakup time where you can't get into the woods. As a result we built an inventory of logs which will soon be running out, and then there must be a period of time for repairs of the sawmill, and this is one reason why we have not been operating night and day putting out lumber to meet the present market demands.

Now, the present market is due to several reasons. Now, in the South and east Texas and the east coast, unseasonably wet weather all last year and again this spring has caused many of the smaller plants to shut down completely for lack of material. We are in a little bit more fortunate position. The market is there and we are trying to take advantage of it.

Between that and the poverty programs that exist we have been able to survive, but once those two conditions are removed we are in real serious trouble.

I have not prepared a statement, Mr. Chairman. I would like to submit one at a later time, but this I do want to say: that I have watched over the years many of these Indian projects. There was the relocation program for example, where you took Indians away from reservations and sent them all over the country, and 6 months later most of them were back.

We had other projects and programs, but as soon as the program stopped, that was the end of it. In addition to receiving assistance to alleviate the tax burden, I strongly believe that a new approach must be made to the Indian problem within the boundaries of the reservation toward developing industry, business, and providing them a source of income and employment opportunities that are so lacking on every reservation.

One other point that was made, and that was about the tax problem of the non-Indian, I don't think that we can arrive at a definite conclusion at this point. I do believe that in analyzing this situation we will find that the biggest amount, the largest amount of our taxes go toward schools and education as anywhere else, and also for welfare.

Now, if the Congress of the United States enacts a restoration act which provides us with many of these services there would possibly be a tax relief for the people that are now concerned. But this must be carefully analyzed and must be reviewed and studied before you can come to any firm conclusions, either for or against, continuing the county as it is or separating it into adjacent counties.

Mr. Chairman, I appreciate the opportunity of being here. I would like to reserve the right to submit a statement at a later date.

Mr. **Meeds**. Without objection, your statement will be made a part of the record at this point, when it is received.

[The statement had not been received when the hearings were printed.]

Mr. **Grignon**. Mr. Chairman, there is just one more—what I forgot to say in my statement was that when we were appearing before the committees trying to work out a program and a plan for termination under the question that was raised, how do you know that you can't succeed—but I think the record would show now, copies of it, 11 years of termination.

I would like to make that part of the record, and further, that I hope the committee will act soon and start turning the Menominee Indian Corporation, should be returned to a trust status and the Menominee Tribe be made eligible for all services and benefits of being an Indian Tribe.

Thank you.

Mr. **Meeds**. Thank you, gentlemen, very much.

Mr. **Dickey**. Mr. Chairman, before I leave I would like to make one other observation. Even though the Bureau of Indian Affairs, through Commissioner Dylan Meyer, pushing and promoting the termination philosophy, from that day until the tribal representatives contacted the State there was absolutely no contact or communication between the Congress, the Federal Government and the State on the problems that were involved in this termination philosophy.

As a result, the State of Wisconsin did not authorize through legislation the establishment of the Indian Study Committee until 1955 after the act had passed.

Mr. **Meeds**. We don't intend to repeat that problem, sir.

Thank you, gentlemen.

Mr. Louis Webster will be the last witness on the Menominee bill.

STATEMENT OF LOUIS WEBSTER

Mr. **Meeds**. Welcome before the committee, Mr. Webster.

Mr. **Webster**. Thank you, Mr. Chairman.

I was asked to come here today to make a report or bring you up on the conservation going on in Menominee County, but I feel that the conservation problem in Menominee County as far as the Menominee people are concerned is all right.

I feel that having a program set up where we can govern ourselves and maintain our own hunting and fishing regulations, the bill mentions something about our hunting and fishing rights. This was put in there with the understanding of the people, that it could have been put in there and didn't have to be put in there because the Menominees still maintained their hunting and fishing rights. This was never taken away from us.

Supposedly, they agreed to accept termination. This is one of the things they came up and one of the things they insisted on.

I feel it was put in there for a very good reason and that reason being that if there were any questions to our hunting and fishing rights that this would be self-explaining. As far as our rules and regulations governing waste at this point we have no jurisdiction over them except to prosecute under the State of Wisconsin statutes, and this includes the trespassing laws.

It is very hard for the Indians to live with this and to show the white people that what we have here we would like to keep. It's hard to sit here and explain it, and I don't believe I can.

When we were terminated, shortly thereafter, many items, an agreement from that point on, our lakes and part of our streams has gotten to a point where our fish and our game around is being driven from their natural places of habitat, particularly the lakes today. Damage has been done to the lakes. This you cannot replace any more.

I've read reports. I see this every day, but the white man has tried to create; he's destroyed one of the Indians' natural resources.

You can't put it in terms of money. You can never bring this back again. There is no way you can bring this back.

I guess what you would call conservation in the eyes of the Indian is something that is there. It's Mother Nature. It's earth. It's earth itself, and he respects this.

He doesn't go out and abuse it, like trying to build natural lakes and all this; this is only hurting him. You just can't explain it.

I heard testimony here today stating about hunting and fishing rights of the non-Menominees. They say that us Menominees gave them this right.

I looked through the papers that I have at home. I asked people that know. I asked people that attended meetings. And nowhere does it state or anybody can tell me that it states that the Menominee people of Wisconsin give this right away.

Our natural resources are getting to a point where they are gradually and sometimes in a near future that they will be, like in the outside world, gone. I can see a day where one day the Menominee people won't be able to go out and fish. They won't be able to go out and hunt, because there will be nothing there if we don't get restoration, and this I believe is going to happen.

Mr. MEEDS. Perhaps your being here, sir, and the way you feel, bears more eloquent testimony than anything you could do.

Mr. WEBSTER. I would just like to say at this point, I would like to say right now that I am not in right now or never will be with Mr. Froehlich's four major changes in the bill because the people, and I mean the Menominee people, had an input into this bill and this bill does not, these four items on the bill are not what the Menominee people want.

The Menominee people did not have a good start when they were terminated. It was here and we had to live with it. But I feel that the people in the United States could learn quite a bit from the Menominees and all Indians throughout the world in that through love, that their love for their land.

Mrs. WEBSTER. My name is Mrs. Christine Webster. This is my nephew here. I certainly appreciate his true feelings in the questions that we have before us today.

I am sure that all the feelings that he is expressing here are the feelings that involve most of us Menominees today. This land is ours and I think that my nephew is trying to say that we want to keep it as such.

I know he gets emotional but I realize that this is a conveyance of a feeling that many of the Menominees feel today.

Mr. MEEDS. Thank you very much, Mrs. Webster. Thank you, Mr. Webster.

That ought to be some indication of the depth of feeling that some people have about this, and in fact the hearings will be in recess until June 28th when we will resume again in Washington, D.C.

Now we're going to put on another hat and begin delivering on a promise we made when we started hearings in the matter of Wounded Knee in Washington, D.C., some months ago. We said then that we wanted to look at the underlying problems of which we felt Wounded Knee was but an outward manifestation.

When we are in this area, we'll have testimony now from people with regard to regional problems of Indian health and education.

We have here with us from the Minnesota Chippewa, Simon Howard, chairman, and David Munnell.

Would you like to come forward, sir.

I understand, gentleman, that you have some concern about the Indian Education Act. While we don't have it before us I worked with it quite a bit so maybe I can answer some of your questions and, let's hope, allay some of your fears and learn something too.

STATEMENTS OF SIMON HOWARD, PRESIDENT, THE MINNESOTA CHIPPEWA TRIBE, AND DAVID MUNNELL

Mr. HOWARD. We have a statement we would like to make part of the record.

Mr. MEEDS. Without objection, the prepared statement will be made a part of the record. You may proceed to summarize it, sir.

[The statement follows:]

STATEMENT OF SIMON HOWARD, PRESIDENT, THE MINNESOTA CHIPPEWA TRIBE

The Minnesota Chippewa Tribe is the governing body of six Chippewa Reservations: Leech Lake, White Earth, Grand Portage, Fond du Lac, Nett Lake, and Mille Lacs. The Tribe has a total membership of almost 35,000.

Two very important areas of Indian Affairs which must be given careful consideration are the Indian Health Service and Indian education. While there has been a great deal of rhetoric concerning these matters over the past four years, there has been very little change forthcoming and even less tribal consultation.

In the past month, a fifteen member Indian advisory board to the Office of Education was appointed. On that board, there is only one representative from Minnesota, Wisconsin, and Michigan. That person is from Minnesota and has been one of the major opponents of our efforts to achieve self-determination.

In reading the legislation establishing this committee, there is very strong wording to the effect that tribal governments would play an important role in the selection of committee members. We now find OE appointing a man from our state who was not nominated by a tribal governing body in our state and who has been openly antagonistic to tribal governments. It appears that we were again misled by governmental promises.

Also in education, we find that we have been misled in encouraging our kids to attend college. After several years on intense effort to encourage college attendance, there is an ever increasing number of persons who cannot obtain adequate financial aid. Last year the Minneapolis Area Office had to get a $230,000 supplement in order to provide adequate assistance. This next year, we will be administering the scholarship program and have been informed that we will have to operate on at ten per cent less money than was available in 1972-73. This is true despite the fact that we expect at least 100 more applicants and the costs of college attendance in Minnesota have increased by eight per cent.

Related educational issues are numerous. As an example, we will administer the Johnson O'Malley program for our reservations in 1973-74. There we will be suffering a fifteen per cent decrease in funding. And then we were lead to believe that the Office of Education was participating in the efforts to achieve self-determination for Indian people. We developed two exemplary proposals: Talent Search and one to the Fund for Improving Post-Secondary Education. Talent Search selected another from a state college over ours and the Fund never let any minority applications past the first round of review.

The other major area of immediate concern is the Indian Health Service. As you know, we will have no medical services if and when the PHS clinics and hospitals are closed. Such an occurence would be a disaster to our reservations. Yet we know that there are federal cut-backs occurring in all areas. We are faced with health service cutbacks on at least two reservations. We need those services and cannot accept any cutbacks. We strongly urge that you ensure that we will not have to take any reductions in health services.

Two other health related problems concern us very much. It seems appropriate that your committee examine these issues as they are intricately related to our self-determination efforts.

We feel that Indian Health Services will eventually have to be contracted to Tribes. But we have found it extremely difficult to get anywhere with PHS in discussing this on at least three occasions we have asked to contract for some parts of the health services. On each occasion we were frustrated by bureaucratic red-tape and the resistance of PHS personnel. This situation must change in the near future.

Closely related to the contracting problems are our frustrations in getting Indian people employed by PHS. The vacancies in PHS are almost ensured to non-Indians because the job descriptions and qualifications are made so as to prohibit local Indian applicants from getting the jobs. It is apparent that these jobs are made for service to PHS rather than to the Indian communities. A good example was a recent vacancy for a sanitation worker. It required two years of advanced study and the expertise to undertake sanitation surveys. Yet the worker was supposed to fumigate houses, unplug sewers, and other such tasks. And across the board we find where the job descriptions have no relationship to actual duties assigned. In this one case, we had a local Indian who was well qualified to assume the job duties but he was denied employment because he couldn't meet the qualifications outlined in the job description. We simply can't tolerate this any longer.

We urge you to examine these issues very carefully. If possible we would like you to initiate an inquiry into the process of selection for the Indian Education Advisory Board, an inquiry into the inadequate funding of Indian educational programs, the lack of OE's participation in our self-determination efforts, and the many problems associated with the Indian Health Service.

Mr. HOWARD. Now, on the education part, we are concerned with the implementation of this bill. We find that we are being put in the same position we were last year where we had different committees representing Indians and not Indian committees that were elected by us.

This, again, is happening to Indian territory in Minnesota and we are particularly interested in finding out who appointed this advisory committee of 15 members. Nobody seems to know who does these things on our behalf.

Mr. Munnell will elaborate a little bit more on education. I would like to get in some related fields on health.

No. 1, we find ourselves again in the position of where if we want something as Indians, that is all that's necessary to make sure that we don't get it, and make rules and regulations that seem to prohibit these things.

We are wondering if there is true self determination, then we should be allowed to make our own mistakes. Now, from the Minnesota Chipps to the Menominees, certainly when you people are enjoying your enforced emancipation we will do everything in our power to welcome you back into the most select society in North America.

[General laughter.]

Now, in housing I'm just going to touch on a few things. Again, we find housing in Minnesota—I'm not sure if poorly is the right word to use. Houses that are normally costing $21,000 are costing up to $60,000 because of the way they're being built. They are being moved. It's been in the papers, and now we would like to bring out, perhaps, some of the reasons why and just to maybe elaborate on it.

We had a man in the Bureau of Indian Affairs in the housing. We got a certain number of houses on cement slabs, which really are no good in Minnesota, when you try to fix utilities that are under the slabs. No. 2, we get a road in that area and we're looking at it, I say, where's the approaches to the homes, and he says, well, we didn't dare put them in. And we asked him why.

Now, this man stated that the reason we did not have an approach to the home was because of the fire hazard. We said, what do you mean, fire hazard. He said, well, don't you Indians put a fire under your car to start them?

Now, this is the type of official we get as head of housing and not only that, they put him up in a bigger job in HUD and we still have to contend with him. And this is why they have the problems in Minnesota today in housing.

We would also like to bring up AIM a little bit, because it so happens that one of the officials of AIM is my cousin and I am not ashamed of it. They're doing their thing, which is all right. But we understand that there's some talk of taking moneys that are maybe to be used for the benefit of all of us to pay for some so-called damages that they may have caused.

We feel that this isn't right. There's very little money as it is and it should be at least used for what it was intended.

We would like to see Public Law 280 repealed. We find ourselves in the position that if I hit my wife I can't get arrested but if I hit my white buddy's wife they'll come pick me up immediately. That's the kind of law we have today in Minnesota.

We are in a gray area and we just cannot do that. We are not eligible for LEA because of Public Law 280. We have related crime problems that we cannot do anything about because of the fact that we're under 280.

If we were declared eligible for this LEA package, then we could do something and we are certainly willing to try.

Most of this will be coming to you as documented, and with that, I thank you for the privilege of appearing before the committee.

STATEMENT OF DAVID MUNNELL, CHAIRMAN OF THE CHIPPEWA RESERVATION

Mr. MUNNELL. My name is David Munnell. I'm chairman of the reservation.

Simon Howard is also my secretary-treasurer of the Deep Lake Reservation. He's also president of the Minnesota Chippewa Tribe.

I want to touch on a few things that he said, education. We were going to bring our education man here today to speak before the committee on this new education bill. There are some parts of it that we object to.

One is talking about control. On our reservation we have eight school districts. We have about a quarter-million dollars of Johnson-O'Malley funds that come into the reservation and this coming July we will actually have committees, our own Indian committees, on how we see fit to help our children.

We are talking about the national education moneys. We as Indians are working on packages to apply for some of these moneys. OK, so are these school districts with their hand-picked committees, so again we will have a conflict.

This was the same position we have been in these last 8 years I have been tribal chairman, the last two terms I have been tribal chairman, and to me that means a waste of time again, hard feelings in a biracial community such as we have on Leech Lake.

We have problems. I appreciate that man that was up here that made that testimony who found it hard to bring his words out. We also are engaged in a conflict like that.

We have been in the courts for 3 years. On our own reservation the only one that gets arrested is an Indian, so we're into that.

That's what I'm saying, we have enough hard feelings on that reservation without this same setup that we had before being forced on us. That bill was prostituted so bad, that we feel we're going to have that same plight all over again trying to get control of some of that money to help our people.

Mr. MEEDS. Well, what control do you have now, sir?

Mr. **Munnell**. Right now we've got our own committees, our own Johnson-O'Malley committees. This coming July 1st our Indian committees will now take over the disbursement of the moneys how we see fit to help our Indian students, and now the national education moneys that come in, each school district is applying for it.

It has to come through the school board. Maybe in some communities it can work well but not in ours. Not on our reservation. We know this. We have had too many problems long before I become chairman.

Mr. Simon Howard was chairman years back, before me. He had the same problems.

Mr. **Meeds**. Do you have an Indian school board?

Mr. **Howard**. Nope.

Mr. **Munnell**. Nope.

Mr. **Meeds**. Well, that's the major problem right there then.

Mr. **Munnell**. Yes.

Ask some more questions.

Mr. **Meeds**. Are there any members at all of the school board that are Indians?

Mr. **Munnell**. Nope. And I can guess your next question, run for school board. Get on the school board.

I'll tell you what happens. We run for election—we had the biggest election a while back here. We tried to get one Indian candidate out of five. They gerrymandered our school district, so the positions are at large.

We ran one Indian candidate. The John Birchers, these people want us all out. That's the biggest election they ever had in that county, just the one we had 2 weeks ago.

That happens time and time again. We've run Indians on the village council. We have never placed one there.

We have run them on the school boards. We ran them on the County Commission.

When the Indian does not get involved in the campaign, just about 100 people show up. Just the moment you run one Indian candidate they get 1,000 against you. That's happened time and time again. So, we don't take kindly to that advice when they tell us, OK, chief, get your Indians together and run, get one of these positions. It is not possible on our reservation because they outvote us 2 to 1 and they get out in force. I don't believe they missed one vote in that area.

And this is what worries us, and Simon brought out the fact that we have problems there. We are under Public Law 280. We are going over to different organizations, different foundation groups, for moneys.

We have appeared in person. We have written letters. Every organization that we approach always hits us with those same words such as these. You are under Public Law 280. You are not eligible for funds.

If the only solution that we've got is to go for a retrocession, getting out from under Public Law 280, that's what we'll try, and when we do we will have the same old problems again that we had when we started this lawsuit on fishing and hunting. There will be vigilante groups. Some lakes, they'll have five meetings where this is bad news.

We would like to work within the system instead of getting the runaround every place we go to.

These are just some of the problems that we have. Right today we've got a resolution in the Department of Interior to get on the list so that we can be eligible for LEAA funds.

We were on a list last year and we're kicked off the list. We did some research on it. They tell us, they have told us, they told us in Washington, you are not eligible for funds.

They've been telling us for 6 years to be exact, 6 years ago we first applied for funds. OK, we do know of 280 reservations that have received law and order funds.

Mr. **Meeds.** Who represents your area, sir, in Congress?

Mr. **Munnell.** Bob Bergland.

Mr. **Meeds.** What percentage of the children in these schools are Indian children?

Mr. **Munnell.** I'll tell you, I'm from one of the biggest ones. We've got the biggest Indian population going to grade school, about 50 percent.

Now, in high school that drops real drastically. I'd say it drops down to, I'd say about 21 or 22 percent.

Mr. **Meeds.** What's the name of that?

Mr. **Munnell.** Cass Lake.

I think about 5 years ago, I think it was down to about 6 or 7 percent.

Mr. **Lujan.** But what about total population, percentagewise in the school districts?

Mr. **Howard.** Are you talking about the total reservation or in this particular school district?

Mr. **Lujan.** What I'm trying to get at is the voting population.

Mr. **Howard.** It's approximately 3 to 1.

Mr. **Lujan.** Non-Indian?

Mr. **Howard.** Yes. There's a non-Indian—there's an 80 percent increase in the vote when we fielded one Indian candidate. Normally the election is won by between 200 and 300 votes. This year there was darned near a thousand votes cast.

Mr. **Munnell.** Let me elaborate a little on that election. The Indian that we ran was a young man, about 26 years old. He's got a real good background, honor student and University of Minnesota graduate. He takes time out. He worked on our program. He was our director.

He worked in different areas as a planner for us. He has a real good background, and the person he ran against was a non-Indian. I think he is a logging operator. He runs a sawmill, according to his qualifications, and he wasn't ashamed to admit it. This man that ran against our Indian, he had a 7th grade education and when he was up before this Meet the Candidate meeting he could not answer one question relating to school problems in the school. And still that man was elected.

Mr. **Meeds.** Well, one of the obvious indications of that testimony is one of prejudice by individual human beings and I don't know how we legislate against prejudice.

Mr. Munnell. The legislation on the National Indian Education Act leaves most of the power within the school board.

Mr. Meeds. And I certainly don't want to argue with you, sir, but first of all there is a national advisory council on Indian education which is composed of Indians, which you don't have now. Now, maybe it's not exactly what you want but at least it's a step forward.

Would you disagree with that?

Mr. Howard. Yes, definitely.

This is one of the complaints, and that is, how is that board picked.

Now, let me elaborate on the man that represents us. This man has made definite statements that he is against all tribal governments on reservations. He believes that there should be no such thing. Yet he is enjoying one of the highest positions in the State of Minnesota and is also on this national advisory board. And who picked him? This is one of our questions we would like to get answered.

Mr. Meeds. I understand it's Will Antell, and without getting into personalities, I assume that his name was submitted, like the others were, through the secretaries from the areas, the BIA, by educators and in the office of education, and other people.

I didn't have any input in the selection of the board, nor did I expect to have, but I have rather high regard for some of the people who were selected from my area in the field of Indian education.

I've heard that Will Antell at least discusses education, and I felt that he was pretty knowledgeable about it.

Mr. Howard. Then apparently it was not through an Indian tribe that Will Antell was elected, at least from Minnesota.

Mr. Meeds. I can't tell you that but I'll try and find out.

Mr. Howard. We would appreciate it, because we have a man that has a Master's in education, a Master's degree in education.

Mr. Meeds. I think Will Antell does too, doesn't he?

Mr. Howard. No.

He may be going for it. We have a man that we wanted considered. Every tribe in Minnesota wanted him, and we want to know what happened.

Mr. Meeds. We'll try and find out, but again, that's no reason to be opposed to that legislation. Maybe the legislation needs amending to provide that these people will be selected by the tribes in the area or something like that.

Mr. Howard. Sir. I guess we're not making ourselves clear.

Number one, we have been in the position for the last 150 years of being under control of a non-Indian school board. Now, we heard these people talking about a tax base.

The most solvent school district in the State of Minnesota is in the Cass Lake area. Due to one thing there's approximately 600,000 acres of land. Of that 90 percent is nontaxable land and as a result Federal money is pouring in there, and it's a tax paradise for every businessman.

They realize it and they're going to control it as much as they can. It's because I'm an Indian that they're getting these funds, not because they're in there.

All right, then. We have no input into the school ever since I can remember. We have had to sit there. The Bureau, the Federal

Government puts that money into non-Indian lands and they disburse it the way they see fit.

They send a big bus out to carry kids to a football game. They put one Indian on there so they could use Johnson-O'Malley funds for travel.

This is what's happening. This is what we don't like, and this is exactly what's happening again through the so-called advisory board.

This is what we are objecting to, the prostitution, as he called it, of the bill. They've screwed it up so damn bad that you can't do nothing, whether it's—we're in the same situation today as we were.

This is what we're objecting to.

Mr. **Meeds.** What specific violations have taken place under the Indian Education Act?

No funds have been expended yet under that act.

Mr. **Howard.** This is true, but just as soon as it is I can assure you it won't be under Indian control, I can assure you of that. It will be under school board control.

This is what we're trying to say.

Mr. **Meeds.** I know of no way to provide funds for public education without making those funds subject to the control of the local school boards. Have you got some idea how you'd do it?

Mr. **Howard.** This is how Johnson-O'Malley funds are today, aren't they?

Mr. **Meeds.** No, Johnson-O'Malley funds are supposedly controlled by the states in coordination with the Bureau of Indian Affairs. Now, I think there's a lot to be desired and this committee ——

Mr. **Howard.** I hate to agree with a committee member.

Mr. **Meeds.** Well, whether you agree or disagree, let me finish.

These funds are supposedly, at least, controlled by the State school board or the State department of education in consultation with the BIA. There are some real bad illustrations of misuse of Johnson-O'Malley funds of which I am personally aware, and this committee is going to get into the whole Johnson-O'Malley question.

And I think there is ample reason for you to be disillusioned with the way that money is being spent under Johnson-O'Malley. I wouldn't disagree with you about that at all.

Mr. **Howard.** I guess I'm just disagreeing with one thing. We have taken over control of the Johnson-O'Malley funds as a tribe. Now, this has been in that law ever since it has been there. It was supposed to be for Indian use and Indian control.

Mr. **Meeds.** Only for Indian use.

Mr. **Howard.** Yes. And under the, I guess, control of Indians because this is how we got control of it, this year.

All right, now this is what we are trying to say. This new Indian Education Act is going to throw some more money right back into the same hands that have been misusing it, and I use the term in the strongest sense.

This is what we are objecting to, and I guess every member on that board, as far as we can determine, is not Indian oriented. They are State or bureaucratically inclined.

In other words, they do what they are told. Then there is no self-determination.

And with that, I will not take any more of your time.

Mr. MEEDS. Let me just once again say, and I appreciate your suggestion on this, but I do not know how you distribute funds to public education without distributing them through the instruments which control public education and those are local school boards.

Now, if you've got an idea how we can do it, I would like to have it.

We appreciate your writing to us, and we'll try to look into the method of selection of these members.

You also ought to look at the act. While my recollection is a little hazy, it seems to me there's some requirement for Indian advisory board in each one of the schools that are receiving funds under the act too.

Mr. HOWARD. That is the problem. You are creating two boards again to supposedly control the Indian part of education. As a result, like I told you, you would start a fight and we certainly have enough trouble without anyone else making one for us, and thank you very much.

Mr. MEEDS. Thank you.

The next witnesses are Arvina Thayer and Edward Driving Hawk.

Ms. Thayer will be discussing Indian health and Mr. Driving Hawk will be discussing alcohol related problems.

STATEMENTS OF ARVINA THAYER AND EDWARD DRIVING HAWK

Mr. MEEDS. Please proceed, Mrs. Thayer.

Ms. THAYER. Mr. Chairman, members of the subcommittee, ladies and gentlemen I'm going to present some information about the health status of the Wisconsin Indians.

I'm here representing the Great Lakes Inter-Tribal Council, Inc.

The injustices suffered by the American Indian are readily realized upon examining the conditions of Wisconsin Indian people. They are victims of poverty, substandard housing, islolation, dependency, prejudice, ill health, harsh winters, long travel distances, all which contribute to the status of their health.

The causes of death among the Indian population indicate the seriousness of the health care situation.

There is an accident death rate for the Wisconsin Indian populaiton of 2½ times that of the white population in the State.

There is a preventable death rate for the Wisconsin Indian population 1½ times as great as for the white population of the State.

There is an infant death rate for the Wisconsin Indian population 2 times as great as the white population in the State.

Mental and physical health can also be considered as a factor which influences a dropout rate of 8 percent and a juvenile delinquency rate of 8 percent.

Scattered throughout central and northern Wisconsin are 10 Indian tribes. The Winnebago tribe lives in scattered communities in several counties, from Wisconsin Dells to La Crosse to Wittenberg. In northwestern Wisconsin, the St. Croix Tribe is located in five communities in Polk, Barron, and Burnett Counties. The Lac Courte Oreilles Tribe is located in northwestern Wisconsin in Sawyer County.

You might refer to the back of this testimony indicating their location.

On the shores of Lake Superior are the lands of the Bad River and Red Cliff Tribes. In north central Wisconsin is the Lac du Flambeau Tribe which is situated in Vilas County. The Mole Lake and Forest County Potawatomi Tribes are located in Forest County in northeast Wisconsin. The home of the Stockbridge-Munsee people is located in central Wisconsin in Shawano County. The Oneida community, located between Appleton and Green Bay, is the only tribe near a metropolitan area.

Preventable deaths are those causes of death which show a rapid decline with committed medical and public health attention.

I have some statistical tables included in this testimony, and I won't go over those.

Mr. **Meeds.** Without objection, your entire prepared statement will be made a part of the record.

Ms. **Thayer.** All right.

The Indian population of the State is for the most part victims of a low economic status. The management information system of Great Lakes Inter-Tribal Council shows that 88.1 percent of Indian families have an income below the poverty level. One of the primary reasons for this is the lack of employment opportunities. The employment opportunities which do exist tend to be of a seasonal and low skill nature. The high rate of unemployment, which is as high as 70 percent in one tribe, points out the need for services and development. This combination of low income and high unemployment as shown by the data in table II is reflected by the health status of the people.

The data revealed in table III show that communities surrounding Indian communities have similar characteristics. For example, the Wisconsin per capita taxable income by counties in 1969 ranges from $1,051 to $3,768. The State average is $2,981. Every county with a significant Indian population falls below the average. Nine out of 17 counties in which there is a distinct Indian population have a county population of less than 20,000. The combination of low economic status and low population limits the extent of services available to the Indian people.

Housing for elderly varies in each community. It is not uncommon for people to live in substandard housing. Data from the GLITC CAP office indicate that 55.8 percent of the 1,180 dwelling units in Indian communities are classified as substandard.

Indian communities tend to be located a considerable distance from towns or cities which provide goods and services. As shown by the data in table IV travel distances range from 5 to 50 miles. This factor of physical distance contributes to their isolation.

No Indian community has a public transportation system. Limited bus transportation is available at some distance from the Indian communities.

The quality of health care varies from tribe to tribe. Three tribes have local clinics with limited services. There are two clinics staffed by volunteers which provide service twice a month.

The Indian population, as all minority groups are subjected to prejudicial attitudes by the majority population. These attitudes affect their participation in benefits and the quality of the goods and services meant for their welfare.

Mr. **Meeds**. Could I ask some questions about the labor statistics and the unemployment figures you have here?

Do these statistics take into consideration everyone who is employable and looking for employment on at least a relatively regular basis—or do they, as do so many employment statistics on Indian reservations, consider only those who are looking for work and wind up in the unemployment office?

Ms. **Thayer**. This of course is taken from the Congressional Record. The Tribes have their own OEDP's which they have developed and we didn't include these figures. Some are a little higher. Some are a little lower.

As far as your question goes, I think they include those people that are looking for work, but there are no jobs available locally. There needs to be something developed and this is the only way we are going to have better health conditions, if people do have their work.

Mr. **Meeds**. Well, that's one of the problems with Indian employment statistics. Often unemployment has been so high for so long that there are some people who simply don't look for work any more because they know it's useless.

Now, in some statistics they would not be counted as unemployed but they are the worst unemployed. You see only the ones who go into the unemployment office weekly or monthly or biweekly and say, "Are there any jobs today," who are counted, and who draw unemployment compensation.

So, it really glosses over what is a much worse unemployment problem in Indian tribes on Indian reservations than in cities.

Ms. **Thayer**. I agree with you.

Mr. **Meeds**. Well, we appreciate very much this information. This will be very good information for our records.

Thank you.

Okay, Mr. Driving Hawk. Would you please go ahead.

[The statement of Ms. Thayer follows:]

Statement of Arvina Thayer, Coordinator, Great Lakes Inter-Tribal Council, Inc.

COMMUNITY HEALTH REPRESENTATIVE PROGRAM

The injustices suffered by the American Indian are readily realized upon examining the conditions of Wisconsin Indian people. They are victims of poverty, substandard housing, isolation, dependency, prejudice, ill health, harsh winters, long travel distances, all which contribute to the status of their health.

The causes of death among the Indian population indicate the seriousness of the health care situation.

There is an accident death rate for the Wisconsin Indian population of 2½ times that of the white population in the state.

There is a preventable death rate* for the Wisconsin Indian population 1½ times as great as for the white population of the state.

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*Preventable deaths are those causes of death which show a rapid decline with committed medical and public health attention.

There is an infant death rate for the Wisconsin Indian population 2 times as great as the white population in the state.

Mental and physical health can also be considered as a factor which influences a dropout rate of 8% and a juvenile delinquency rate of 8%.

Scattered throughout central and northern Wisconsin are ten Indian tribes. The Winnebago Tribe lives in scattered communities in several counties, from Wisconsin Dells to La Crosse to Wittenberg. In northwestern Wisconsin, the St. Croix Tribe is located in five communities in Polk, Barron and Burnett Counties. The Lac Courte Oreilles Tribe is located in northwestern Wisconsin in Sawyer County. On the shores of Lake Superior are the lands of the Bad River and Red Cliff Tribes. In north central Wisconsin is the Lac du Flambeau Tribe which is situated in Vilas County. The Mole Lake and Forest County Potawatomi Tribes are located in Forest County in northeast Wisconsin. The home of the Stockbridge-Munsee people is located in central Wisconsin in Shawano County. The Oneida community, located between Appleton and Green Bay, is the only tribe near a metropolitan area.

TABLE I, POPULATION CHARACTERISTICS OF TRIBES[1]

Tribe:	*Total Population*
Bad River	716
Lac Courte Oreilles	861
Lac du Flambeau	905
Mole Lake	138
Oneida	2,759
Potawatomi	138
Red Cliff	596
St. Croix	434
Stockbridge-Munsee	981
Winnebago	1,492
Total	9,020

[1] Source—1970 U.S. Census Determined by Indian Population in Counties with a Distinct Indian Community.

The Indian population of the state is for the most part victims of a low economic status. The Management Information System of Great Lakes Inter-Tribal Council shows that 88.1 per cent of Indian families have an income below the poverty level. One of the primary reasons for this is the lack of employment opportunities. The employment opportunities which do exist tend to be of a seasonal and low skill nature. The high rate of unemployment, which is as high as 70 per cent in one tribe, points out the need for services and development. This combination of low income and high unemployment as shown by the data in Table II is reflected by the health status of the people.

TABLE II, ECONOMIC CHARACTERISTICS OF TRIBES[1]

[Percent of unemployment in population]

Tribe:	
Bad River	49
Lac Courte Oreilles	18
Lac du Flambeau	31
Mole Lake	53
Oneida	8
Potawatomi	70
Red Cliff	53
St. Croix	27
Stockbridge-Munsee	25
Winnebago	39

[1] Congressional Record, July 29, 1970.

The data revealed in Table III show that communities surrounding Indian communities have similar characteristics. For example, the Wisconsin per capita taxable income by counties in 1969 ranged from $1,051 to $3,768. The state average is $2,981. Every county with a significant Indian population falls below the average. Nine out of 17 counties in which there is a distinct Indian population have a county population of less than 20,000. The combination of low economic status and low population limits the extent of services available to Indian people.

Housing for elderly varies in each community. It is not uncommon for people to live in substandard housing. Data from the GLITC CAP office indicate that 55.8 per cent of the 1180 dwelling units in Indian communities are classified as substandard.

TABLE III—COUNTY, POPULATION AND WISCONSIN PER CAPITA TAXABLE INCOME—1969

County	Total population	Wisconsin per capita taxable income
Adams	9, 234	2, 153
Ashland	16, 743	2, 105
Barron	33, 955	2, 195
Bayfield	11, 683	1, 889
Brown	158, 244	2, 856
Burnett	9, 276	1, 895
Forest	7, 691	1, 852
Jackson	15, 325	2, 170
Juneau	18, 455	2, 249
LaCrosse	80, 468	2, 601
Monroe	31, 610	2, 224
Outagamie	119, 356	2, 928
Polk	26, 666	2, 296
Sawyer	9, 670	1, 913
Shawano	32, 650	2, 209
Vilas	10, 958	2, 479
Wood	65, 362	2, [illegible]

Source: Wisconsin Bureau of Planning and Budget.

Indian communities tend to be located a considerable distance from towns or cities which provide goods and services. As shown by the data in Table IV travel distances range from 5 to 50 miles. This factor of physical distance contributes to their isolation.

No Indian Community has a public transportation system. Limited bus transportation is available at some distance from the Indian communities.

TABLE IV

Tribe:	*Distance to closest goods and services center*
Bad River	13
Lac Courte Oreilles	20–50
Lac du Flambeau	12–40
Mole Lake	8–40
Oneida	5–30
Potawatomi	8–50
Red Cliff	30
St. Croix	15–40
Stockbridge-Munsee	10–30
Winnebago	10–40

The quality of health care varies from tribe to tribe. Three tribes have local clinics with limited services. There are two clinics staffed by volunteers which provides service twice a month.

The Indian population, as all minority groups are subjected to prejudicial attitudes by the majority population. These attitudes affect their participation in benefits and the quality of the goods and services meant for their welfare.

The CHR Program proposes to surmount some of the above situations so Wisconsin Indian people can have a better quality of life.

OBJECTIVES

To improve the overall health status of the Wisconsin Indian population it is proposed that the Community Health Representative Program achieve the following objectives:

1. To improve the mental health status of the Wisconsin Indian population.
2. To improve the nutritional status of the Wisconsin Indian population.
3. To improve the environmental health status of the Wisconsin Indian population.
4. To increase the number of people who receive dental and medical care.
5. To inform the population of family planning practices.

MENTAL HEALTH

Several factors indicate the seriousness of mental health among Wisconsin Indian people.

A high rate of alcoholism, deaths from cirrohis of the liver and pneumonis, an accidental death rate which is 2½ times the rate of the white population, attempted suicides, an eight per cent high school drop out rate compared to three per cent for the total state. While .05% of the students in the state are Indian, 7.4% of the Wisconsin School for Girls are Indians.

While all these factors may be related to the status of mental health there is often an interrelationship of such factors. Economic status, prejudice, discrimination, self concept, awareness of opportunities are all factors which contribute.

Efforts in programming in mental health have been sporadic at best. While the CHR Program has neither the expertise nor the resources to fully cope with the complexities of the problems which affect mental health it is expected that each CHR will develop at least one program which can make a contribution which will lessen the seriousness of the situation.

Such programming efforts will also serve as a guide and impetus to the possibility of developing a more significant program to deal with the problem.

Objectives

1. To reduce the rate of alcoholism.
2. People to develop a more positive self concept.
3. Parents to develop awareness of parental responsibilities.
4. Parents to practice child rearing practices which foster positive mental development.
5. People to develop multi-interests for leisure time activities.
6. The use of drugs by youth to be prevented or reduced.

Resources

1. GLITC Alcoholism Program
2. GLITC Youth Development
3. Mental Health Clinics

NUTRITION

Data relating the causes of death indicate that the nutritional status of Wisconsin Indian people, needs to be improved. The death rate attributed to diabetes mellitus is more than three times as high for the Indian population as it is for the total population of the state. The fact that 27% of the deaths of Indian people is caused by a heart disease can frequently be related to inadequate nutrition. The preventable death rate which is one and a half times as high is also influenced by poor nutrition.

Objectives

1. Families to consume the nutritionally required amounts of vitamin A, vitamin C, non-calcium and protein foods.
2. Families to increase consumer competency regarding food buying.
3. Pregnant women to receive recommended nutritional requirements.
4. Infant and preschool children to receive recommended nutritional requirements.
5. To reduce the degree of obesity among Wisconsin Indian people.
6. Diabetics to have information so they can control the disease.
7. To reduce the incidence of cholesterol.
8. Youth to appreciate the importance of nutrition and to practice adequate nutrition.
9. Youth to participate in school lunch programs.
10. The number of breakfast programs in schools to be increased.
11. The elderly to participate in feeding programs.
12. Wisconsin Indian people to participate in appropriate food programs such as food stamps and surplus commodities.
13. Eligible people to participate in social service programs which can enhance the food budget.

Resources

Staff of GLITC's Infant Mortality Program and Emergency Food Program, Youth Development Program and Head Start Program can contribute to this phase of the program. Also, Expanded Food and Nutrition Program Assistants of the UW-Extension Program will assist in meeting the above objectives in the counties where they are located. UW-Extension faculty will cooperate with the CHR Program in meeting the above objectives.

ENVIRONMENTAL HEALTH

Situation

The environmental health of the Indian people of Wisconsin has been neglected. Although there are some projects such as housing sanitation, land fill and water facilities, the needs have not been met. Following are problem areas which CHR's may work toward solving.

1. Water testing.
2. Garbage disposal (sanitary land fill).
3. Care of new homes.
4. Clean up.
5. Rabies clinics.
6. Getting rid of junk cars.
7. Education programs on fire hazards and accidents in homes.
8. Pest control.

Objectives

1. To insure a safe water supply by testing water.
2. To promote adequate garbage disposal.
3. To coordinate efforts in maintaining new homes.
4. For communities to be rid of litter and debris.
5. Dogs to be free of rabies.
6. Communities to reduce their number of junk cars.
7. Home accidents to be reduced.
8. Household pests to be controlled.

Resources

I. H. S. environmental health staff will help in providing assistance to the CHR's on these problems, also County nurse, ASC, Town government and DNR.

FAMILY PLANNING

Situation

The following data indicated the need for family planning program.

1. A live birth rate of 33.1 per thousand for Indian people in Wisconsin compared to 17.9 per thousand for the total state.

2. 41.6% of Indian births in 1970 were considered excess live births in comparison to 22.8% for the white population in Wisconsin.

3. 25.3% of the Indian births in 1970 were out of wedlock as compared to 8.6% of the non-Indian population in Wisconsin.

4. The Indian infant mortality rate for the years 1967-69 was 27 per thousand compared to 18.5 thousand for the total state population for the years 1966-1970. This high birth rate reflects the fact that the lower economic status of the family, the larger the family and the younger the age at which child-bearing begins. Early procreation and very high birth rates result in higher infant and maternal death rates as well as a higher incidence of birth defects. It is, for these reasons, that effective family planning can provide a means of alleviating poverty and deprivation and improving the health and well-being of the Indian people. It can also contribute to improved marital relations and more stable families.

Family planning can also provide an important method of improving maternal health through requiring the initial pelvic examination in order to detect any abnormalities or disease, a Pap smear to determine whether or not there is cervical cancer, a blood pressure reading, hemoglobin or hematocrit, a culture for gonorrhea, urinalysis for glucose and albumin.

Family planning can provide assistance to couples who want children but have not been able to do so. Family planning can help families space their children and control the size of their family. Also, family planning can result in happier marriages, healthier families, less financial stress and an opportunity for self realization. Also there is indication of an incidence of veneral disease.

Objectives

1. Indian people to be informed of family planning methods.

2. Indian people to practice a method of family planning of their choice if they wish to do so.

3. Indian people to receive medical service to increase fertility if needed.

4. Adult Indian women to have an annual physical checkup which includes a Pap test, a pelvic examination, blood pressure test, hemoglobin or hematocrit, a culture for gonorrhea and urinalysis for glucose and albumin.

5. Indian people to recognize and control veneral disease.

Resources

Each CHR is to utilize the training which they have received. They will cooperate with the GLITC Infant Mortality Project staff in programming. County health nurses and members of the medical profession will serve as resources.

NARRATIVE MATERNAL AND CHILD HEALTH

Problem

The Wisconsin Indian population suffers from an infant mortality rate of more than twice that of the non-Indian population. Because of the drastic infant rate, lack of adequate health care, and sizable population, the Great Lakes Inter-Tribal Council of Wisconsin proposes to develop a Pilot Program to reduce the rate of infant mortality.

General economic and social conditions on the Great Lakes Inter-Tribal which encompasses the 10 Indian Reservations contribute to this factor. Historically high unemployment rates, low income levels, sub-standard housing, 15 to 60 miles to medical facilities, lack of adequate medical facilities, prejudicial attitudes, lack of information by parents contribute to this situation.

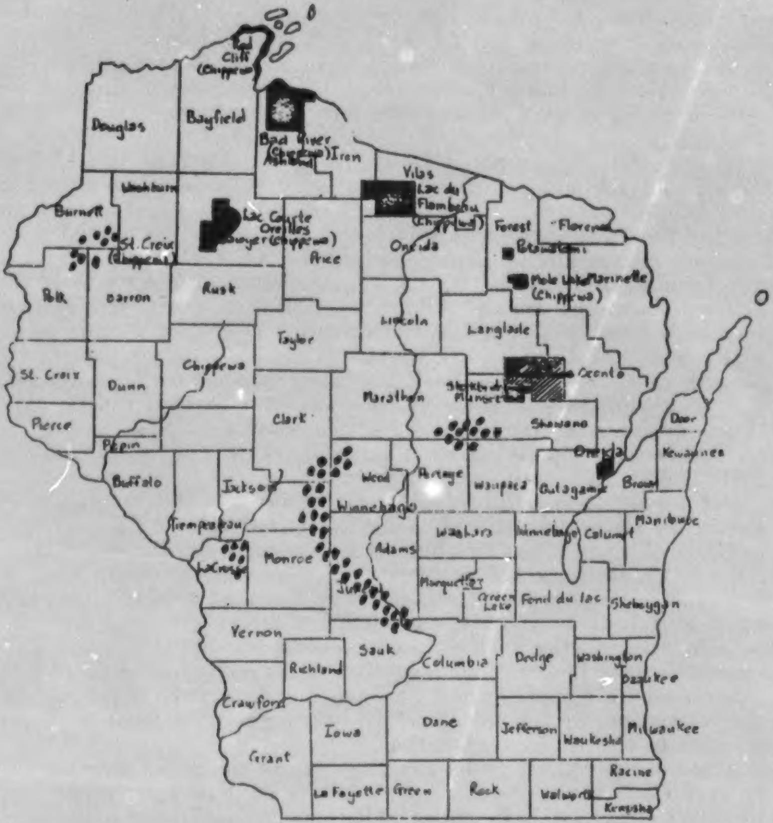
The following statistics indicate the seriousness of health care for infants.

41.6% of Indian births in 1970 were considered excess live births in comparison to 22.8% for the white population.

25.3% of Indian births in 1970 were out of wedlock as compared to 8.6% of the non-Indian population.

The Indian infant mortality rate for the years 1967-1969 was 27 per 1000 compared to 18.5 per 1000 for the total state population for the years 1966-1970.

The critical population is for women under the age of 18 and women over the age of 40. Women who are diabetic or alcoholic are also considered part of the critical population. Research shows that infants born to women under the age of 18 and over the age of 40 have a greater tendency toward infant mortality and general health problems. Alcoholism is considered the most serious of Indian health problems and diabetes is considered the second most serious health problem.


Red Cliff (Chippewa)
Douglas
Bayfield
Bad River (Chippewa)
Ashland
Iron
Vilas
Lac du Flambeau (Chippewa)
Washburn
Burnett
St. Croix (Chippewa)
Lac Courte Oreilles
Sawyer (Chippewa)
Price
Oneida
Forest
Florence
Potawatomi
Mole Lake (Chippewa)
Marinette
Polk
Barron
Rusk
Lincoln
Langlade
Taylor
St. Croix
Dunn
Chippewa
Oconto
Stockbridge Munsee
Marathon
Clark
Pierce
Pepin
Shawano
Door
Oneida
Kewaunee
Buffalo
Jackson
Wood
Portage
Waupaca
Outagamie
Brown
Winnebago
Trempealeau
Waushara
Winnebago
Calumet
Manitowoc
La Crosse
Monroe
Adams
Juneau
Marquette
Green Lake
Fond du lac
Sheboygan
Vernon
Sauk
Richland
Columbia
Dodge
Washington
Ozaukee
Crawford
Iowa
Dane
Jefferson
Waukesha
Milwaukee
Grant
Racine
La Fayette
Green
Rock
Walworth
Kenosha

STATEMENT OF EDWARD DRIVING HAWK

Mr. DRIVING HAWK. Yes, first of all, I would like to say that I'm director of Indine Inc., which is an organization which was primarily interested in treatment of alcoholism and prevention of alcoholism and alcohol abuse among the Indians in Wisconsin.

We work in close conjunction with the Great Lakes Inter-Tribal Council and all other Indians throughout the State. In my prepared statement the Great Lakes Inter-Tribal Council and Indine recognize that alcoholism and drug abuse is one of the greatest health and social problems of the Indians of Wisconsin.

This was pointed out in the recent passage of two resolutions which directed the Indian Health Service and the Bureau of Indian Affairs to become involved in the prevention of alcoholism. I would like to state at this time that up until this point there has been no funds for either the Indian Health Service or the Bureau of Indian Affairs designated or earmarked strictly for alcoholism.

They have been totally out of the problem of alcoholism as such, or drug abuse. They have been relying totally on the National Institute of Alcoholism and Alcohol Abuse for funding.

We first had a report on alcohol and health by Secretary Richardson of HEW included to Congress, that among American Indians alcoholism is at an epidemic level; more than twice the national average.

This report was prepared by the National Institute on Alcohol Abuse and Alcoholism. The Wisconsin State alcoholism plan for prevention, treatment, and control of alcohol abuse and alcoholism for the fiscal years 1972 and 1973 found that factors associated with a higher rate of alcohol abuse included the No. 1 Indian population and families below Social Security Administration poverty level.

The Bureau of Indian Affairs at Ashland states that Indian income is roughly $750 annually. Now, like I said, up to this point really what's at issue here is whether alcoholism causes poverty or poverty causes alcoholism. Really, as far as alcoholism is concerned, and treatment, this is not a major concern. Based on the Gelenik theory or formula that 1 out of 7 drinkers are alcoholics, and based on the Indian population of Wisconsin, there are approximately 2,600 Indian Alcoholics.

But when you use the NIAA study where it's at epidemic level more than twice the national average, a more realistic figure would be 5,200. Although 5,200 alcoholics may seem shocking in number, there is an even greater problem than that with alcohol abuse. It is all but impossible to put a percentage figure on alcohol abuse, the number of Indians who abuse alcohol, but recently two sample surveys in two counties which were taken on the St. Croix and Lac Courte Oreilles Reservations exemplify the severity of the problem.

In Burdette County, where Indians represent only 3 percent of the population, 64 percent of all arrests involving alcohol were attributed to the Indian population.

A more detailed study by the Department of Social Services in Sawyer County reflects that of 25 adults on parole or probation, 10 were Indians; of 12 juveniles under supervision 4 have a drinking problem, 3 of which were Indians; 12 adults institutionalized with drinking problems, 6 were Indians; 13 adults under supervision, 8 were Indians.

In Sawyer County the Indians represent only 8 percent of the population. Alcoholism and alcohol abuse creates many health problems, either directly or indirectly.

In a recent study, incidentally, by the Indian Health Service on the Indians of Wisconsin, it was revealed that the main cause of death among Indians was auto accidents. This can be directly attributed to alcohol abuse. This study also revealed that there are 20 times as much diabetes in the Indian population as in comparison to the white population. This can be indirectly attributed to alcoholism or alcohol abuse.

If a survey of all Indian hospital admissions were taken, a surprisingly high percentage of these admissions would or could be attributed to alcoholism or alcohol abuse, such as cuts, abrasions, broken bones, gastritis, cankeritis, cirrhosis of the liver and so forth.

What's happened here, since the Indians and the health service have no funds strictly designated for alcoholism, Indians who are suffering from alcoholism, and before the reimbursement can be paid to the hospital, they have to be admitted under other causes such as gastritis, cankeritis, and some of these.

Of course, another factor as a result of alcohol abuse, is the high suicide rate among the Indians, which is 2½ times that of their white counterpart. Now, currently there is no concentrated effort to deal with problems of alcohol and alcohol abuse among the Indians of Wisconsin.

The only access to treatment available to the Indians is in the two State hospitals, one located at Winnebago State Hospital and the other at Mendota in the southern part of the State, and the two counties, one is Dunne County and one is Sault County.

These treatment programs are geared to the white middle class Americans. They do not consider the values or culture of the Wisconsin Indians. The director of these programs recognizes that the Indian addict has a particular need and they were unable to fill this need.

The Great Lakes Inter-Tribal Council now has 5 alcoholism counselors to cover the 14 Indian settlements spread out through the State.

Incidentally, there is nothing here in Menominee County as far as counselors or outreach efforts. In Milwaukee there is an outreach program consisting of five counselors. There's also a halfway house in the extreme northwest corner of Superior.

Now, basically, what this tries to do is point out the limited amount of resources that are available to the alcoholic Indian and under the President's new budget there will be no more new starting dates or funding of new programs under the NIAAA.

So, basically, what would happen is, this is what we'd have to serve the population of the Indians: 10 alcoholism counselors and 1 halfway house, and this is why the Great Lakes Inter-Tribal Council has seen to try to get the Bureau of Indian Affairs and Indian Health Service directly involved in the treatment of alcoholism.

What is ideally needed is nine additional counselors to cover the additional settlements throughout the State, one more halfway house centrally located and above all we are in need of a treatment center. We don't need just a treatment center but one that is designed to treat Indians in a specialized treatment center, one that takes into consideration the Indians' traditional culture and which religion, social organization and values.

One other need that exists is that of education and referral services. Now, some of the counties throughout the State have education and referral services spread out, but without a place for you to refer anybody to, the services are kind of at a loss. The education referral services will provide alcoholism and drug education to all Indian communities and schools where Indian children attend.

The referral service should work with the family, the courts, the Department of Social Service and all other professionals into referrals.

We are dedicated to provide a comprehensive alcoholism program to the American Indians of Wisconsin. In this program we would hope to consolidate all existing programs and provide for the new programs through, hopefully, Federal funding. And these would be emergency service, inpatient service, outpatient service, immediate care, education, and referral, rehabilitation, training and research and evaluation.

I don't know if I have amplified the severity of the problem as we see it, but in alcohol abuse it is fairly evident and like I said it creates unemployment and poverty. Whether it creates unemployment and poverty is not the question. You have to start someplace in removing the symptom and in this case it is the answer.

Mr. MEEDS. Very good.

Mr. Driving Hawk, let me just ask you this. Alcohol is one of the drugs and probably the most bothersome of all, but is there any major problem with Indians involved in some of the other drugs of the present day, amphetamines, such things as that?

Mr. DRIVING HAWK. Well—

Mr. MEEDS. Heroin, anything like that?

Mr. DRIVING HAWK. Well, actually only 1 percent of the population ever used heroin, actually, in the State of Wisconsin. On two surveys used recently——

Mr. MEEDS. One percent of the youth?

Mr. DRIVING HAWK. Yes. This was a survey run in two high schools.

Mr. MEEDS. Have even experimented with it?

Mr. DRIVING HAWK. Yes. Really, to truthfully say, I don't think there's ever been a survey run or any indication of the hard drug use amongst the Indians.

I myself think it's probably in the minority if it is utilized.

Mr. MEEDS. In brief, it has not become so noticeable as to be a special problem?

Mr. DRIVING HAWK. No, not at this point. But, like any other use, without the education of what results of the use are, the potential of use is always there.

Mr. MEEDS. The gentleman from New Mexico.

Mr. LUJAN. Thank you, Mr. Chairman.

I just wanted to ask, because I think we need to get the BIA into the alcoholism programs rather than hiring Indians to run rehabilitation centers—what are the things you need to do?

Mr. DRIVING HAWK. Well, like I said, taking into the traditional culture—you know, as you have just witnessed today the close feeling that the Indian has towards nature in general is one aspect that has to be considered. The traditional medicine man, the traditional sweat baths, and these type are something that needs to be used.

Mr. LUJAN. Thank you, Mr. Chairman.

Mr. MEEDS. Thank you very much, both of you, for coming. And again, the information in your statements will be very helpful to us.

The last witness is Mr. John Wiley.

STATEMENT OF JOHN M. WILEY, DIRECTOR, WISCONSIN JUDICARE, INC.

Mr. WILEY. I want to assure you, sir, my statement is not that lengthy. Those are appendices.

Mr. MEEDS. Very good.

Mr. WILEY. My name is John M. Wiley. I am an attorney and Director of Wisconsin Judicare. I appreciate the invitation to appear and speak on behalf of Wisconsin's native Americans.

Wisconsin Judicare is a legal services program presently funded through the Office of Economic Opportunity, and hopefully funded in the future through the proposed National Legal Services Corp.

By way of background, I would like to make a few brief statements about Wisconsin's Indian population. The 1970 census showed that there are 18,924 native Americans in Wisconsin. This is a 35 percent increase over the Indian population disclosed by the 1960 census.

Wisconsin Indians live in urban areas and on ten reservations. And Alvina Thayer has disclosed that information to you in her testimony so I will not repeat that.

I have been asked to the areas of education and welfare as they affect Wisconsin Indians. Of course, these areas encompass the whole of modern day Indian life. The principal problem which Wisconsin Indians face, in my opinion, is a failure of Government.

The failure of Government can be seen in several areas. In the area of employment Wisconsin Indians are the victims of discrimination. They are the last to be hired, the first to be fired and are frequently paid less than minimum wages. They are also frequently illegally denied unemployment compensation and workmen's compensation benefits.

Chronic unemployment is a most pervasive problem, so I've included some statistics that are identical to those that Miss Thayer had in hers.

Wisconsin Indians are also discrminated against in the administration of welfare. Their efforts to obtain welfare are met with contempt. Local welfare directors are quick to find reasons for denying benefits to native Americans, which are extended to whites without question.

I would add, Mr. Chairman, that in one regard, Mr. Druckrey who has testified before you today is an exception to that. He is an able and sensitive welfare director and does a good job on behalf of the Menominee people.

I have appended to my statement a report on social services to the Indian people dated March 1972, prepared by the Subcommittee on Migrants and Indians of the State Advisory Committee on Social Services. This furnishes an in-depth analysis of the delivery of social services to Wisconsin's native Americans.

Wisconsin Indian children uniformly suffer from discrimination in those school districts adjacent to Indian reservations. I have also appended a list of school districts having 10 or more identified Indian students during the 1971–72 school year. In addition, I have attached a report on the education of Menominee youth, prepared by Marjorie C. Casper, a VISTA with Wisconsin Judicare in March of 1971. Although this study relates only to Menominee children in the Shawano County, it is a true reflection of problems faced by Indian children elsewhere in the State.

The administration of justice as it affects Indians is uniformly heavy-handed throughout the State of Wisconsin. Indians are arrested for offenses for which whites are only admonished. Indians are required to post bail while whites are permitted to sign their own recognizances. Indians are punished more severely than whites for the same offenses.

Statistics on reported crime rates and rates of institutionalization are out of proportion for Wisconsin Indians. Wisconsin Indians comprise only 0.03 percent of the Wisconsin population. However, according to the 1970 "Statistical Bulletin C–57" of the department of corrections, they account for 5 percent of all the inmates in our State penal institutions. Indian boys comprise 7.4 percent of the residents in the Wisconsin School for Boys, Kettle Moraine Boys School, and the Juvenile Camp system. Indian girls make up 8.2 percent of the inmates at the Wisconsin School for Girls.

Records on file at the Council on Criminal Justice show that similar disproportion exists at the county level. Burnett County, with a total population of 9,276, has about a 3-percent Indian population. Yet in 1969, 35 percent of the inmates in the county jail were Indian. This figure rose to 50 percent in the first half of 1970. Jackson County has within its boundaries an Indian mission area, located near the town of Komensky, with a population of 200. Together with others who live around the mission area, these Indians again comprise about 3 percent of the county's population of 15,325. Yet 20 percent of the county jail's prisoners are Indian. Vilas County, in the far northern portion of the State, with a population of 10,958, has approximately a 3 percent Indian population. Nevertheless, 62 percent of its county jail inmates are Indian, and 78 percent of all the man-days spent in jail are served by Indians.

Another persistent area of harassment and abuse results from the Indians' exercise of their treaty rights to hunt and fish. We recently have succeeded in reaffirming the Lake Superior Chippewas' right to fish free of State regulation. In *State* v. *Gurnoe*, tried by my predecessor, John F. Preloznik, who was here yesterday, the Wisconsin court ruled that the Lake Superior Chippewas have the right to fish free from State interference under the treaty of 1854.

The department of natural resources predictably responded by arresting a white fish dealer who purchased wall-eyes from Indian fishermen. This case has now been tried and the trial court has ruled that since the Chippewas were fishing commercially at the time of the treaty they have the right to fish commercially now and the right to sell necessarily means the right to have a buyer who is free of interference.

Similar litigation is pending in Oneida County relative to the sale of venison from the Lac du Flambeau Reservation. The rights of Wisconsin Indians to hunt and fish are valuable, both economically as a means of subsistence and culturally as a part of Indian life. Care must be taken to prevent any legislative encroachment upon these rights.

While the foregoing represent profound instances of failure of government, I do not feel that we should abandon our efforts at meeting our obligations to native Americans. In this regard I would like to respectfully submit three legislative proposals:

First, I urge adequate funding for American Indians through the Bureau of Indian Affairs. Steps must be taken to prevent efforts to punish those responsible for the BIA takeover last November by cutting or withholding BIA funds.

In addition, the administration of block grants must be watched carefully so as to prevent de facto termination under the guise of self-determination. Block grants should not be substituted across the board in lieu of delivery of services.

I regress, sir, from my comments, as I drove over yesterday, Mr. Chairman, I listened to the space shot being made. There were some of the astronauts up in the space lab, to the space lab, and the commentator said that that venture was costing $2.5 billion.

Mr. Chairman, I don't know how much money $2.5 billion is, but it's got to be a hell of a lot of money and the thought occurred to me what we could do with that amount of money being spent on the one space shot, on the Indian reservations throughout this country in creating industry, health care centers, alcoholism treatment centers and schools, and staffing them adequately.

It seems to me, Mr. Chairman, that our national priorities are grossly confused under that kind of a program.

Mr. MEEDS. Mr. Wiley, has it ever occurred to you what would happen in this Nation if we made a $2.5 billion social error? In all probability, $2.5 billion in space is practically wasted. I hope it isn't but it may well be, because somebody made a mistake.

Did it ever occur to you what would happen if somebody made a $2.5 billion social mistake in this country?

Mr. WILEY. There would be some rather profound repercussions.

Mr. MEEDS. Indeed. But with the space shot we will dust our hands and say, ho-hum. Somebody made a mistake.

Mr. WILEY. The thing that frightens me, Mr. Chairman, is that I'm afraid that they'll try it again and shoot another $2.5 billion.

Mr. LUJAN. Just to correct the record, that shot is not costing $2.5 billion. It's the whole space program, not just the one shot.

Mr. WILEY. Secondly, I urge enactment of an adequately funded and politically unfettered National Legal Services Corporation. It is important to permit local programs to function free from political interference since most, if not all, legal efforts on behalf of native Americans involve conflict with some elements of the establishment. Access to the judicial system is essential if American Indians are to protect their proud heritage and treaty rights.

Finally, I urge the enactment of the Menominee Restoration Act now. The fact that Menominee Enterprise stock certificates will become negotiable in 1974 is a time bomb ticking at the breast of the Menominee people. If this bomb is to go off it will destroy the Menominee people economically and culturally forever.

Mr. **Meeds**. Thank you very much, Mr. Wiley. Could you give me some idea of what percentage of the cases handled by the Wisconsin judicare program involve Indian people, Indian clients?

Mr. **Wiley**. Yes. The Wisconsin judicare is a bifurcated program. There is a central office staff which provides legal services principally to Indian groups such as the Great Lakes intertribal council and the various tribal councils, and I would say that within our central office staff probably 75 percent of our activity is on behalf of Native Americans.

The other part of the program is that part where the poor who qualify under eligibility standards can get cards and go to private attorneys for routine legal services. In those counties adjacent to Indian reservations, there is a fairly high percentage of work done for Indian people. In those counties where there is a lower Indian population it is a relatively small amount, but our central office efforts to a large extent are on behalf of the Great Lakes Inter-Tribal Council, their various projects, and the tribal councils.

Interestingly enough, the tribal councils frequently need private counsel. The solicitor in the Department of Interior should furnish that, but frequently what the tribal council wants is contrary to departmental policy with the result that they are left without legal counsel.

Mr. **Meeds**. That's another thing this committee will be working on and that's special counsel.

Mr. **Wiley**. I think it's critically important, Mr. Chairman, if we are going to have special counsel for Indian people that they have got to be able to function independently. They have got to be able to respond only to their clients and not, for example, to the Department of Justice or the Department of Interior or the National Legal Resources Corp.

They have got to have the freedom that a private attorney would have.

Mr. **Meeds**. Thank you very much, Mr. Wiley.

The gentleman from New Mexico.

Mr. **Lujan**. No questions.

Mr. **Meeds**. Very good.

With that we will adjourn the formal part of our hearings.

[Whereupon, at 3:45 o'clock p.m., the hearing was adjourned.]

H.R. 7421—THE MENOMINEE RESTORATION ACT

THURSDAY, JUNE 28, 1973

House of Representatives,
Subcommittee on Indian Affairs
of the Committee on Interior and Insular Affairs,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 1324, Longworth House Office Building, Hon. Lloyd Meeds (chairman of the subcommittee) presiding.

Mr. **Meeds.** The Subcommittee on Indian Affairs of the Full Committee on Interior and Insular Affairs will be in session for further taking of testimony on H.R. 7421, the Menominee Restoration Act.

We have already had 2 days of hearings in Wisconsin and it is a pleasure to welcome those of you who were in Wisconsin for the hearings, and those of you who were not, to the Washington, D.C. hearing today.

The bill which we are considering was made part of the record at our field hearings in Keshena on May 25, so it will not be made part of the record at this point; but the report of the Department of Interior and the report of the Department of Health, Education, and Welfare will be inserted in the record at this point, without objection.

[The information referred to follows:]

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., June 27, 1973.

Hon. James A. Haley,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

Dear Mr. Chairman: This responds to your request for the views of this Department on H.R. 7421, a bill "To repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes."

We recommend enactment of this bill if amended as suggested herein.

H.R. 7421 would extend Federal recognition to the Menominee Indian Tribe of Wisconsin, would repeal the Act of June 17, 1954, whereby Federal services to the Menominee Tribe were terminated; and would reinstate all rights and privileges of the tribe and its members which may have been lost or diminished pursuant to that Act.

Section 4 directs the Secretary to call an election among the Menominee people of a Menominee Restoration Committee, which would implement this

Act. *Inter alia*, this Committee would bring current the June 17, 1954, Menominee roll. Descendants of persons on that roll would be added thereto provided they had one-quarter degree Menominee blood or more.

Section 5 directs the Committee, under contract with the Secretary, to conduct an election to determine the tribe's constitution and bylaws; *i.e.*, the Committee will draft these documents and submit them to the tribal electorate for approval. The Committee will also hold an election for members of the tribal governing body.

Section 6 provides that 2 years after enactment the assets of Menominee Enterprises, Inc., may be tendered to the Secretary and if tendered shall be accepted. Such assets transferred would be subject to all outstanding obligations, including taxes, but land would be taken in trust and thus freed of all obligations accruing after the date of transfer. Land transferred by individual Menominees would be handled the same way *vis-a-vis* prior obligations.

Section 7 vests management of Menominee lands in the tribe, which is to deal with all related subjects in its constitution. However, regulation of fishing by non-Menominees on lakes within Menominee lands shall be regulated by the state of Wisconsin, which shall stock these lakes like any other public lakes.

Section 8 declares it to be the policy of Congress to provide full financial assistance for Menominee students to those local educational agencies which enroll 2 or more members of the tribe who reside on the reservation or within the boundaries of Menominee County.

I. BACKGROUND

H.R. 7421 would restore the Federal trust relationship with the Menominee people of Wisconsin. This relationship was terminated on April 30, 1961, pursuant to the Act of June 17, 1954 68 Stat. 250; 25 U.S.C. 891-902), as amended. This Act—the Menominee Termination Act—was the first legislative yield of House Concurrent Resolution 108, passed by the 83rd Congress on August 1, 1953, which had as its primary goal the phasing out of Federal supervision and control over Indians.

The Menominee Termination Act provided that the Menominee Tribe should formulate and submit to the Secretary a plan for the future control of tribal property and of service functions conducted at that time by or under the supervision of the United States, including but not limited to services in the fields of health, education, welfare, credit, roads, and law and order. The resulting plan relied upon securing state legislation to furnish aid and protection to the Menominees in their new form of governance.

To implement the Menominee plan, the State of Wisconsin created Menominee County and Town, whose boundaries are coterminous with the previously existing reservation. All of the social service functions which had been administered by the Tribe and the Bureau of Indian Affairs were assumed by Menominee County and Town. Menominee Enterprises, Incorporated, which was also created by the State of Wisconsin, assumed the ownership of the land and assets that had been held in trust for the Menominee Tribe by the United States Government. Each person whose name appeared on the final tribal roll was given an income bond and 100 shares of stock in Menominee Enterprises, Incorporated, as evidence of his participation in the ownership of the land and assets that had been held by the United States.

In order to help the Menominees solve the problems they faced after termination, significant Federal and State financial assistance have been made available including some $2 million provided under special authorizations contained in Public Law 87-432 (76 Stat. 53) and Public Law 89-653 (80 Stat. 903). Since termination, aid has amounted to approximately $20 million in State and Federal funds.

In addition, the State of Wisconsin enacted special statutory provisions to attempt to alleviate certain organizational, administrative, and financial difficulties that were found to exist. A special Wisconsin legislative study group was set up to monitor progress and problems, and to make recommendations for legislative action that might be needed to correct the problems.

Even with these special efforts, serious financial and other problems have plagued the Menominees since termination, and they and their institutions are now gravely threatened by insolvency and the loss of their land base. Menominee Enterprises, Inc. has already had to dispose of some land, its most valuable asset and one to which the Menominee people have a deep attachment, in order to meet its ongoing operational requirements and its tax liability obligation to Menominee County.

To further complicate the financial problems besetting Menominee Enterprises, the sales of its products—primarily lumber produced at its saw mill—have been declining steadily from a high point of $4.1 million, with a profit of $744,000, in 1966. Even if this trend were to be reversed, rising costs for Menominee Enterprises, Inc., and in the lumber industry as a whole make a dramatic upswing in profits unlikely. It is apparent that the costs of running Menominee County will not be able to be met out of the profits of the saw mill, but most likely will be met by further sales of the land assets of the corporation. Dissipation of the land base will reduce the amount of land that is available for sustained management for forest products, thus jeopardizing the operation of the saw mill. The prognosis for the Menominees, then, is bleak: financial chaos or stopgap transfusions of increasing amounts of public moneys without any real chance of altering the downward spiral. Needless to say, the toll of this decline on the morale of the Menominees has been severe.

II. RECOMMENDATIONS

We believe that the only certain solution to the grim situation with which the Menominees are faced is to restore the trust relationship with them, thus opening the way for provision of the full range of assistance for which Federally recognized Indians are eligible. We believe that most Menominees have also reached this conclusion. Restoration is a particularly apt course to adopt in this instance because of two characteristics of the Menominees' situation. First, it can be argued that the Menominees did not willingly enter into termination. The Act of June 17, 1954 (68 Stat. 250), which authorized the Menominee termination, also provided for a per capita distribution of $1,500.00 to each Menominee enrollee out of a special Menominee fund in the Treasury and out of the Menominee judgment fund (which emanated from a decision of the Court of Claims (119 Ct. Cl. 832 (1951)) that the United States had mismanaged the Menominee forest reserve. The implication, if not the actuality, of this linkage of per capita payments and termination is that the former depended on the latter: *i.e.*, that funds coming to the Menominees were to be held hostage until termination was agreed to. Thus, the Menominee termination can be viewed as an instance of "forced termination", a policy which the President soundly rejected in his Indian message of July 8, 1970.

Secondly, unlike many other terminated tribes, over the years since termination the Menominees have remained a remarkably cohesive Indian group with their own government and have maintained a strong attachment to their former reservation land. By preserving their land base virtually intact, the Menominees have steered clear of the difficulties which might impede their restoration if their land had been largely sold and divided into patches.

However, we do not support the manner in which H.R. 7421 would restore the Federal Indian relationship with the Menominees. Section 7 of the bill would create a unique Federal relationship with the Menominees whereby the Secretary of the Interior would play only a consulting role in the tribe's management of its trust assets. Ordinarily, of course, the Secretary would have approval authority over such management, for the Secretary, as trustee, has the responsibility to hold the tribal assets and to take all necessary steps to protect them so that, should the trust be dissolved, he could pass them on to the beneficiaries in an unencumbered state. We believe that the normal trust relationship should apply to the Menominees. This is not to question the judgment of the Menominees; indeed, as we have stated, they have done a creditable job of managing their affairs since termination. Rather, the rationale for our adopting this position is simply that it is the only one whereby the Secretary can properly fulfill his duties toward the Menominees' trust assets. Accordingly, we shall offer certain amendments to be discussed in the proper portions of this letter.

Section 3 of the bill extends recognition to the Menominee Tribe as of the date of enactment of the bill and repeals the Act of June 17, 1954. The section also protects the rights of the members of the tribe. While endorsing the reinstatement of the Menominee Tribe, we wish to point out that the Menominees agreed in a general council meeing on October 27, 1934, to accept the provisions of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, commonly known as the Indian Reorganization Act, the document that is the basis of government for most of the tribes recognized by the Secretary of the Interior. Since that action has not been repudiated by the Menominee people, they would still be subject to its provisions when they are reinstated. In addition, we believe that the general policy of this Department with regard to the provision of Federal services to Indians—that such services are a function of the Indians' having trust land bases—should be adhered to vis-a-vis the Menominees. Thus, should the Menominees have decided, at the end of the two-year negotiation period with the Secretary of the Interior, provided by section 6 of this bill, not to turn assets over to the Secretary for the establishment of a reservation, we believe that their Federal recognition should lapse. To carry out these recommendations, section 3(a) should be stricken and the following should be substituted in lieu thereof:

> "Sec. 3(a). Effective on the date of enactment of this Act, notwithstanding the provisions of the Act of June 17, 1954, chapter 303 (68 Stat. 250; 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934, chapter 576 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it. *Provided, however,* That extension of Federal resognition to the Menominee Indian Tribe of Wisconsin beyond the two-year period provided in section 6 of this Act shall be contingent upon the establishment of an appropriate tribal land base to be held in trust by the Secretary of the Interior pursuant to that section."

We recommend the addition of a new provision to section 3 to enable the Secretary to grant to the Menominee tribe, upon its request, funds appropriated to carry out Indian programs administered by the Secretary. Such funds could be spent by the tribe for the general purposes for which they were appropriated. This authority is the same as that which the Secretary would have with regard to all tribes if the Indian Tribal Government Grant Act, recently proposed by this Department, is enacted. We believe that the Menominees' more than ten yeares of complete self-government are a strong indication that such a provision could be a most useful one for them to have in dealing with the Federal Government after their restoration. Accordingly, we recommend the addition of a new subsection 3(d):

> "In providing to the Menominee Indian Tribe of Wisconsin such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior is authorized, from the funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the Menominee Indian Tribe of Wisconsin and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated."

Section 4(a) Authorizes the Secretary of the Interior to set into motion the action that will result in the election of the Menominee Resoration Committee. This committee will initiate the return of the Menominees to the trust relationship with the United States. We believe that such a committee is needed and that the best means of ascertaining the preferences of the Menominees as to its composition would be through a secret ballot election held under the supervision of the Secretary of the Interior. (The nomination process could be handled via a general council meeting called for that purpose.) Although we recognize that restoration should proceed as rapidly as possible, we believe that the time limits imposed by the bill—the Secretary is directed to announce within 15 days of enactment a general council meeting of the tribe to elect the committee, to be held within 60 days of enactment—may be too short to allow for notification of all interested persons. We suggest that these time frames be extended, so that there can be no question about sufficient time for notification of all Menominees.

We have an additional problem with this subsection, specifically in its provision which includes, as persons eligible to vote in the meeting to elect the Restoration Committee, descendants of persons named on the final 1954 Menominee roll. We cannot with certainty identify such persons, even in the longer time period which our amendment suggested in the previous paragraph would afford. In addition, since section 4(b) imposes a one-quarter blood requirement for enrollment of descendants, this provision would allow descendants who will not qualify for membership to participate in the election of the Committee. We believe that the only practical recourse at this point is to limit voting for the Restoration Committee to living enrollees on the 1954 roll. To implement these recommendations, subsection 4(a) should be stricken and the following new subsection should be substituted therefor:

> "Sec. 4(a) Within thirty days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Menominee Restoration Committee. Such general council meetings shall be held within ninety days of the date of enactment of this Act. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902), as amended, shall be entitled to attend, participate, and vote at such general council meeting. Within sixty days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. All living persons on the final roll of the tribe published under section 3 of the Act of June 17, 1954, as amended, shall be eligible to vote in said election. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act."

Section 4(b) of the bill provides the procedure to be followed in bringing the Menominee roll current. The subsection sets the criteria for enrollment, including a one-quarter blood quantum requirement. Subsection 4(b) requires that the roll be prepared by the Menominee Restoration Committee under contract with the Secretary of the Interior and that the tribe maintain that roll under whatever procedure it sets out in its constitution and bylaws. During the early stages of the roll preparation, prior to assumption of the task by the tribe, all appeals of enrollment questions would be directed to the Secretary of the Interior and his decision on such appeals shall be final.

We recommend that this section be amended to endow the Secretary, who must approve the Menominee roll, with the ultimate responsibility for seeing to its preparation. This change can be accomplished by deleting the second sentence of subsection 4(b) beginning on line 18, page 4 and by substituting in lieu thereof the sentence, "The Secretary, in consultation or under contract with, the Menominee Restoration Committee, shall proceed to make current that roll in accordance with the terms of this Act." We also recommend a clarifying amendment. The sentence beginning on line 22 sets out the persons that may be added to the roll reopened by section 4. We recommend the deletion of the words "a person who is or was enrolled" as they appear in lines 22 and 23 of page 3 and the insertion in lieu thereof of the words "an enrollee".

Finally, we recommend deletion of the last sentence of subsection 4(b). This sentence would require the Secretary of the Interior to rule on all appeals of enrollment actions within sixty days of their submission. We recommend this amendment because we believe that the entire enrollment process, including appeals, should be dealt with by the Secretary via his authority to issue rules and regulations under section 9.

Subsection 5(a) outlines the steps to be taken by the Menominee Restoration Committee in calling an election to determine the content of the documents needed to govern the tribe. Under contract with the Secretary—to be entered into by the Secretary within 90 days of enactment—the Committee would be required to conduct such an election within 180 days of enactment. We believe that the impetus for this election should come from the Menominee Restoration Committee, according to its own schedule. Accordingly, we would delete this subsection and substitute the following:

> "Sec. 5(a) Upon request from the Menominee Restoration Committee, the Secretary shall conduct an election by secret ballot, pursuant to the

> provisions of the Act of June 18, 1934, as amended, for the purpose of determining the tribe's constitution and bylaws."

Subsection 5(b) provides for submission to the voting membership of the tribal constitution and bylaws drafted by the Menominee Restoration Committee. We have no objection to this provision, but point out the fact that this constitution and bylaws will be drafted and approved pursuant to the provisions of the Act of June 18, 1934, as amended, since it is the provisions of that Act that govern the procedure to be followed as indicated in our comments on section 3(a) above.

Subsection 5(c) provides for the election of the tribal governing officials. The election of such officials is a well-recognized internal tribal matter in which the Secretary of the Interior has no part other than to satisfy himself that the provisions of the tribal governing documents relating to such elections are complied with. Accordingly, we recommend that all of subsection 5(c) be deleted and the following be substituted therefor:

> "(c) Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. Absentee balloting shall be permitted. All tribal members who are 18 years of age or over on the date of election shall be entitled to vote in the election."

Subsection 5(e) states that provisions of the Act of June 18, 1934, as amended, shall not cover the elections provided for in the bill. We recommend the deletion of this subsection. Amendments recommended in this report make the tribe subject to the provisions of the Act of June 18, 1934, as amended, making this section inconsistent with that recommendation.

Subsection 6(d) directs the Secretary of the Interior to accept any real property located within or adjacent to Menominee County, Wisconsin, transferred to him by Menominee tribal members to be held in trust for the Menominee Tribe, with said assets to be subject to all valid existing rights. This provision is needed to allow the Secretary of the Interior to accept donations of land from individuals. It should be pointed out that all land transferred under this provision would be a gift to the tribe in that the trust title could be taken only in name of the tribe and not in the name of the individual.

Section 7 of H.R. 7421 is the means whereby the Menominees would be restored to a unique trust relationship, one in which the Secretary of the Interior was a consultant, rather than the responsible party, with regard to the management of Menominee trust assets. Under section 7 this unique relationship would be embodied in the Menominee constitution. As we have discussed *supra*, we do not favor such a limited role for the Secretary with regard to Menominee trust assets. If the amendment recommended by this report that makes the tribe subject to the Act of June 18, 1934, as amended, is adopted, the Secretary of the Interior will have full responsibility for the tribal trust land and will exercise that responsibility. Similarly, that Act provides the Secretary with the authority to approve the tribal constitution prior to its adoption. Therefore, we recommend that these portions of section 7 be stricken. The remaining portion of that section deals with the regulation of fishing and lakes by the State of Wisconsin. We question the propriety of legislating directives such as this with regard to a State and believe that this matter is one best left to negotiation between the tribe and the State. For these reasons, we recommend that all of section 7 be stricken and that subsequent sections be renumbered accordingly.

Section 8 sets our policy considerations for the education of Menominee students. We see no need for such a special provision and strongly believe that Menominee students should be treated the same as other Indian students in like circumstances. Therefore, we recommend deletion of section 8 in its entirety and the corresponding renumbering of subsequent sections.

Enclosed is an estimate of the per year cost to the Bureau of Indian Affairs for the first five years if the bill is enacted and Federal recognition is extended to the Menominee Tribe. We do not expect to have any capital expenditures for construction on the reservation, nor is there any expenditure to be made to replace, remodel, or improve the existing mill facility.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

Enclosure.

ESTIMATES (FIRST YEARS)

	Cost
Education	420,000
Road Maintenance	225,000
Welfare and Guidance Services	200,000
Employment Assistance	140,000
Forestry	125,000
Management of Trust Property	75,000
Credit and Financing	49,000
Adult Education	30,000
Housing Assistance	31,200
Agriculture Extension	20,000
Supporting Services	54,000
Total	1,369,000

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 11, 1973.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of May 11, 1973, for the views of this Department on H.R. 7421, a bill "to repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes."

We would support enactment of H.R. 7421 if amended as suggested below.

The report of the Department of the Interior describes the bill in depth.

In his July 9, 1970, Message to Congress, the President argued strongly against forced termination of Indian tribes. The President pointed out the importance of maintaining the special relationship between Native Americans and the Federal government and the harmful effects the termination policy had had, and he requested that Congress repeal House Concurrent Resolution 108. Since that Message, the Administration has asked the Congress to enact various bills which would assist in carrying out the President's policy of self-determination for Native Americans. Presently before this Congress are bills H.R. 6374, 6853, 6376, and 6372 designed to facilitate this policy. These bills will not only provide for voluntary Indian control of programs and contracts but also provide the right of retrocession to tribes who decide they are better served returning control to the Federal government.

With regard to Indian Health Services, it is estimated that provision of comprehensive health services to the Menominee people will cost approximately $1.3 million annually. Additionally, we estimate a one-time, nonrecurring cost of $1.8 million for sanitation facilities construction.

In order that there be no question as to the eligibility of the Menominee people for Indian Health Service programs, we would recommend section 3(b) of the bill be amended and the following phraseology added after "(25 U.S.C. 891-902)": "and those health services under the Indian Health Transfer Act of 1954." We also recommend an amendment to H.R. 7421 to provide for the delivery of Federal services to the tribe or its members, either directly or through contracts or grant payments to the tribe, if the tribal authorities so choose.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. MEEDS. In 1954, in an era and under a policy best repudiated and forgotten, the Congress enacted a law terminating Federal recognition of the Menominee Indian Tribe and abolished the trust relationship between the United States and that Tribe. Thus began a chapter in the story of the Menominee Indians which has ended in near total economic, social, and cultural collapse.

The statement is often made that the Menominees consented to the act terminating their trust status. A review of the history of the termination act clearly shows that his so-called consent was directly motivated by acts of coercion and confusion on the part of the Congress and the Bureau of Indian Affairs. In fact, the Menominee did not willingly consent to termination.

During the hearings of this subcommittee in Keshena, Wis., I read into the record a statement of our former distinguished colleague, Melvin Laird, on the termination act which I would again like to read. Mr. Laird, commenting on a bill to make a per capita payment to the Tribe—that was the bill which later became the vehicle of termination, stated:

> Some time after the hearing before the House Committee, the Department of the Interior submitted to the committee a report favoring enactment of the bill introduced by me, with one modifying amendment to which the representatives of the tribe agreed. The House then passed the bill. The bill was then sent to the Senate and the delegates of the Menominee Tribe later reported to me that it was impossible to obtain action on their simple per capita bill in the Senate.
>
> The next thing I knew was that the delegates reported to me they had been informed by Senator Watkins, chairman of the Senate subcommittee, that unless they committed themselves to a program of withdrawal from Federal supervision, they could not expect to obtain action on a per capita bill.

Consent under these circumstances does not constitute free and willing consent in any man's language.

The termination legislation was enacted without adequate study and consideration by the Congress and the administration on the potential ramifications and implications of the proposal.

Termination has not worked. The Orfield report, the recent BIA study, and other examinations of the results of the Menominee Termination Act clearly show that the Menominee Indians and Tribe, on the brink of tribal success and self-sufficiency at the time of termination, have been reduced to a state of poverty almost unequalled in the State of Wisconsin. Every indicator of economic and social measurement has the Menominee at the bottom or nearly so.

If this trend continues unreversed, total collapse of the Menominee community is inevitable. In the words of the 1973 BIA report to the Congress on Menominee termination:

> The economic instability of MEI combined with the elimination of public funds to the county make the situation perilous. Unless relief is made immediately in the form of either massive infusion of public funds or restoration,

MEI will no longer be economically viable and Menominee County will go under.

With this kind of assessment, the resolution of the problem and the responsibility and obligation of the Congress is clear.

Restoration will not only go a long way to solving the immediate problem, but will also rectify a past wrong. The lands, the resources, the culture, and the entity of the Menominee Indian Tribe remain substantially intact, though severely threatened. Restoration is feasible and practical, and common decency and justice require it.

But the question of termination and the opportunity to reverse it in this case goes beyond the Menominee situation. The termination policy of the 1950's, under which the Menominee were terminated, and the vestiges of that policy which have carried over to the present, have engendered a feeling of suspicion and cynicism among the Indian people which effectively thwart sound, well-intentioned efforts on their behalf. It is my firm hope that passage of this legislation will be a clear signal to the Indian people that the policy of termination is terminated.

The gentleman from New Mexico.

Mr. LUJAN. Thank you very much, Mr. Chairman.

Not very much of an opening statement. I just want to welcome the people from the Menominee Reservation, many of whom we met for the first time on the trip, many who we had known before. So, we want to welcome you to the hearings.

I thought that those hearings in Wisconsin were very informative. I learned a lot about the problem. Yet I would perhaps reiterate what I said in my closing remarks when we were on the reservation, and that is that while I hear that there is a lot of controversy over what we should do about this bill throughout the country, in Wisconsin we only had the opportunity to hear one side of the issues, and I do not quite feel as comfortable as I should. I should hear something from the other side. Maybe I will not agree with it, but I would feel a little better about making up my own mind.

So, just in the interest of hearing all sides, again, welcome to those of the Menominee Reservation to Washington.

Thank you, Mr. Chairman.

Mr. MEEDS. The gentleman from Oklahoma.

Mr. JONES [of Oklahoma]. I have no statement.

Mr. MEEDS. Very well.

We are honored to have the chief sponsor of this legislation with us as the first witness this morning, the Hon. Harold Froehlich.

Welcome to the committee. You are accompanied by Congressman Obey, who is also one of the major sponsors. We were informed that Mr. Obey had a very important meeting at the House Appropriations Committee this morning which we did not want him to miss, but in view of the fact it has delayed, we will now have the honor of his presence, also.

We are delighted to welcome both of these gentlemen.

Please come forward. I assume you are commencing first, Mr. Froehlich.

Is that correct?

Mr. FROEHLICH. Yes, Mr. Chairman.

Mr. MEEDS. Mr. Froehlich, you have a relatively long statement, would you like to read it or would you rather have us by unanimous consent insert it in the record and have you summarize?

Mr. FROEHLICH. Would you do that, please?

Mr. MEEDS. Without objection, so ordered.

[The prepared statement of Mr. Froehlich plus table follows:]

STATEMENT OF HON. HAROLD V. FROEHLICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman and Members of the Subcommittee: I very much appreciate this time to acknowledge forthrightly and publicly my respect for the chairman Indian Tribe of Wisconsin.

This is the third day of hearings on my bill, H.R. 7421. I would like at this time to acknowledge forthrightly and publicly my respect for the chairman of this subcommittee for the dispatch with which he scheduled hearings on my bill and for the manner in which he has conducted these hearings to date. He has earned the confidence and admiration of all concerned.

During most of the 1950's, Congress viewed the termination of Indian Tribes as the preferred policy of the Federal government. This policy was articulated in House Concurrent Resolution 108, which was adopted in 1953, and it was implemented in twelve instances beginning with the Menominee Termination Act of June 17, 1954.

There has always been controversy about the merits of termination. Throughout the entire period since the early 1950's, Congressman Saylor has expressed his concern about the wisdom of this policy; and he was joined in opposition, from the moment termination began to involve the Menominee Tribe, by a long distinguished, bi-partisan list of officials from Wisconsin.

In 1970, in his Recommendations for Indian Policy, President Nixon rejected termination, citing its "bad practical results" in the cases in which it had been tried. This was a wise and welcome declaration. But many Indians across American would like to see a more formal repudiation of this policy, to remove the spectre of termination from the Indian consciousness.

We meet here today because termination, at least with respect to the Menominee Tribe of Wisconsin, has proved to be a monumental mistake. It has created innumerable problems for the Menominee people. These problems will not be relieved by hand-wringing or confessions of error. They require positive efforts to correct the present situation. I am persuaded that restoration of the Menominee Tribe is the course to take.

There is a sound constitutional basis for this legislation.

First, Congress has always enjoyed expansive authority over the affairs of Indian Tribes; and were it not for the Termination Act of 1954, the Menominees of Wisconsin would today be a federally-recognized tribe, with land in trust and Federal benefits. If the Congress had power to terminate the special trust relationship between the Menominees and the government, it should also have power to restore that relationship.

Among its powers, Congress has the power to enforce and implement treaties with Indian Tribes; and it is these treaties with once sovereign tribes, which resulted in the acquisition of vast tracts of land from the Indians, that provide the primary basis for the unique status of Indians in the American system.

Second, Congress has an entirely legitimate interest in preserving the land and the forest of the Menominee Tribe of Wisconsin. Congress possesses the power to establish national forests and national parks and to preserve and protect the environment. It should also possess the power to preserve intact the land of the Menominees by placing it in trust.

Third, Congress has an interest in preserving different cultures in our pluralistic society. The restoration of an Indian reservation is one constitutional means of helping a group of individuals to preserve their heritage, thereby maintaining rich cultural diversity in our national life. This is a proper social purpose that benefits not only the subject tribe but also the country as a whole.

Finally, Congress has the power to promote economic development among a disadvantaged people. Restoration is designed to reestablish the Menominee Reservation, fully recognize the Menominees as Indians under Federal law, and accord them the benefits that accrue to other Indians because of their unique status. Restoration should provide the setting for a much improved economic situation among the Menominee people. I hope to promote self-determination and self-sufficiency of the Tribe through a new trust relationship.

These several bases establish a solid foundation for the Restoration Act. In the event of a legal challenge, a court should have no problem in sustaining the constitutionality of this legislation.

These bases also provide a means of distinguishing the Menominees from at least some of the other tribes who could be candidates for restoration in the future. I have said before that the Menominees must be handled as an individual case, not only because there are "special local difficulties" that must be treated by a restoration bill affecting them, but also because the twelve terminated tribes do not stand on equal footing in an appeal for restoration.

For instance, there is a vast difference between the situation of the Menominees and the situation of the Klamath Tribe in Oregon. Both tribes were terminated in 1954. The Menominees struggled mightily to preserve their land and heritage. The Klamath Indians, on the other hand, sold the greater part of their land to the government. They are now in the process of selling almost all the rest.

Mr. Chairman, at this point, I would like to discuss several provisions of H.R. 7421. I would like to preface this discussion by reasserting the fact that I support restoration of the Menominee Tribe. I have said this publicly on many occasions. I said it when I introduced the bill, May 2. I said it during my testimony in Keshena last month. I am saying it again today.

At the same time, however, I am not entirely sure of the sentiment for complete restoration among the members of the Menominee Tribe. Those who speak out do not always represent the views of the majority. I offer as an exhibit a communication I received yesterday from the Council of Chiefs of the Menominee Indian Tribe. The signers of the resolution include several popular elected officials of Menominee County.

Perhaps the most responsible way to determine the views of Menominee County residents is to conduct a referendum. The County government could do this; but I suspect that local officials would prefer some other authority to conduct the referendum.

In any event, a responsible Restoration Act, whatever its form, must protect the interests of all affected parties, including the interests of non-Menominees. My concern for the interests of non-Menominees has been sharply criticized in some quarters. Frankly, this criticism would appear to validate the apprehension that many non-Menominees feel about the consequences of restoration.

When the Menominee Reservation was finally terminated in 1961, the State of Wisconsin created Menominee County to provide civil government for the territory that had once made up the reservation. Previously, the reservation had been part of Shawano and Oconto counties. The decision to create Menominee County was natural and appropriate to the new circumstances that then existed, even though the land mass, the tax base, and the population in the county are fairly small.

In the late 1960's, Menominee Enterprises, Inc., sold about 5.200 acres of land in the southeast corner of Menominee County. This land, which is in the area of the Legend Lakes, LaMotte Lake, Moshawquit Lake, and Round Lake, is now, for the most part, privately owned. Some of the owners are Menominee Indians. Most of the owners are non-resident, non-Menominees. I happen to be one of the people who purchased property on Moshawquit Lake, where I now have a cottage.

One of the major objectives of restoration is to place the land owned and controlled by Menominee Enterprises in tax-free trust. When this happens, the great bulk of taxable lands within the county will be removed from the tax rolls of the county, the township, and the school district. My bill also provides that individual Menominee property owners may place their lands in trust with the Secretary of the Interior. After these transfers, the tax base of the county and the township will consist of the small amount of Menominee-owned land that has not been placed in trust and the property owned by non-Menominees, few of whom are residents of the county.

In Wisconsin, the funds to support town and county governments and the public schools are raised primarily from taxes on real property. Consequently, the cost of government in Menominee County and Menominee Township will be borne almost entirely by a small group of predominantly non-Menominee property tax payers. The taxes and assessments on the property of these people would be set by the men and women who control the government in the county.

From the outset I perceived in this relationship the seeds of inequity and unfairness. I came to the conclusion that the best plan would be to abolish Menominee County at the time of restoration, and to restore the town and county lines that existed prior to termination.

Under the Wisconsin Constitution, the people of Menominee County possess the power to reject absolutely the abolition of their county. One way to induce them to abolish their county would be to make abolition a prerequisite of restoration.

Some Menominees have resisted the idea of abolishing the county. They argue the desirability of complete self-determination for the members of the tribe.

They also assert that the concern about the tax load of non-Menominee taxpayers, after restoration, is not justified because the costs of county government will dramatically decrease.

I appreciate the desire for self-determination. It is understandable and reasonable. But I cannot support a situation in which a majority of people are placed in a position to totally dominate the government and to impose their views on a small minority, without bearing any of the responsibility or burden of their actions. Representation without taxation would produce tension, if not tyranny. Pious expressions of good will, however sincere they may be, do not provide the kind of assurances and protections to which minorities are traditionally entitled in our country.

The key co-sponsor of this bill would not agree to any provision that conditioned the effective date of complete restoration upon the abolition of Menominee County. I would not agree to a bill that did not provide protection for minority property owners. Consequently, we compromised on Section 6(a), which prohibits the Secretary of the Interior from accepting Menominee land into trust for two years after enactment.

This position would permit an orderly, period of transition from the date of enactment to the time when the great bulk of the land is removed from the tax rolls of local government. During this period, all the Federal assistance for education and other governmental functions to which the Menominees will be entitled, will be available. This should reduce the cost of local government. During the transition period, all concerned parties would be able to assess the impact of this federal assistance on the tax load of property taxpayers in Menominee County.

It is plainly inconsistent to claim that Menominee Enterprises will go bankrupt if MEI land is not quickly placed in trust, while insisting that no serious financial burden will be placed on small property owners if MEI property becomes tax exemt.

Dr. Rupart Theobald, the Chief of Wisconsin's Legislative Reference Service, suggests a different approach to the problem. If the bill contained a clause authorizing the State of Wisconsin to establish local government bodies to implement this Act, the constitutional referendum veto power of Menominee County residents would be superseded. In that event, no immediate restructuring of county government would be necessary. The people who controlled government in Menominee County would know that they could be put out of business if they did not conduct themselves in a responsible manner. This salutary check is lacking in the present bill.

A provision to authorize a restructuring of local government by the State is acceptable to me. If such a provision were included in the bill, I believe Menominee land could go into trust almost immediately.

The Act should definitely require some transition period, however, because chaos will result if events move too fast.

A very important technical change is to substitute for the words "Menominee County" wherever they appear in the present bill, the language: "the territory constituting, on the effective date of this Act, the County of Menominee."

A second provision in H.R. 7421 that is different from the draft bill that was submitted to me is the last sentence in Section 7.

This sentence reads: "Fishing by non-Menominees on Legend Lakes, La Motte Lake, Moshawquit Lake, and Round Lake shall be regulated by the State of Wisconsin, and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin."

In *Menominee Tribe of Indians v. United States*, 391 U.S. 404 (1968), the Supreme Court affirmed the treaty rights of members of the Menominee Tribe to fish without regulation on all the lakes within the boundaries of the former reservation. Nothing in Section 7 changes these rights. The first part of the key sentence affirms what I believe is the law now, that is, the State regulates fishing by non-Menominee on the named lakes. For example, a non-Menominee property owner on La Motte Lake is not entitled to fish in that lake without purchasing a fishing license from the State. He must purchase such a license to fish in front of his own property.

This sentence also means that the Menominee Tribe may not regulate fishing by non-Menominees on these lakes. If the tribe had the power to regulate fishing by non-Menominees on these lakes, it could deny fishing rights to people who own property on the lakes.

This section imposes a duty upon the State of Wisconsin to stock these lakes with fish in the same manner that it stocks other lakes regulated by the State. It is my understanding that the State does not now stock these lakes because the Menominee Tribal members have free access to them (without regulation). This action by the State may be reasonable vis a vis the Menominees; but it is not reasonable vis a vis the non-Menominees. They are discriminated against. This sentence requires the State to end this discrimination.

A third vital provision in the bill is Section 8. This section recognizes the special educational needs of Menominee young people and the responsibility, not of local taxpayers, but of the U.S. Government to meet these needs. Hence, this section declares it to be "the policy of the United States to provide full financial assistance for Menominee students to those local educational agencies which enroll two or more members of the tribe who reside on the reservation or within the boundaries of Menominee County."

This provision is designed to promote high quality education for Menominee students without unfairly burdening local taxpayers. Local taxpayers do not have treaty obligations with the Menominee Tribe. They should not be saddled with the burden of educating Menominee young people. This is a Federal responsibility.

The final substantive change in the bill I introduced is the elimination of a draft provision requiring the tribe's constitution to contain a provision prohibiting the sale of land within the limits of the tribe's reservation.

The tribe is authorized by my bill to include in its constitution a clause prohibiting the sale of reservation land, but I do not believe that Congress should require them to do so. To my mind, such a clause is not in keeping with the new spirit of self-determination that should apply to Indian tribes in the governance of their internal affairs.

I do not advocate the sale of tribal land, but I can conceive of situations in which a majority of the tribal members might wish to sell a small part of their reservation. To require an Act of Congress in order to sell a small piece of land is to say, in effect, that the Menominees, having been through so much, cannot be trusted to decide the most important of their own affairs. This is a proposition to which I cannot subscribe.

Mr. Chairman, this concludes my formal statement. I appreciate the courtesy of the Subcommittee, and I earnestly hope that we will be able to move forward with a bill that advances the interests of the Menominee people *and* protects the interests of all concerned.

Thank you very much.

THE STATES AND THEIR INDIAN CITIZENS

Table III—Termination Legislation Based on Policy of H. Con. Res. 108 of August 1, 1953

[Listed alphabetically]

Tribe	Date of act	Date of termination	Tribal membership	Tribal land (acres)
Alabama-Coushatta Tribes of Texas.	June 23, 1954 (68 Stat. 768).	July 1, 1955	450 (estimated)	3,200
California Rancherias and Reservations.	Aug. 18, 1958 (72 Stat. 619) Aug. 11, 1964 (78 Stat. 390).	35 rancherias as of June 30, 1959.	1,107	4,315.5
Catawba Indians of South Carolina.	Sept. 21, 1959 (73 Stat. 592).	July 1, 1962	631 (final roll)	3,388
Klamath Tribe of Oregon.	Aug. 13, 1954 (68 Stat. 718).	Aug. 13, 1961	2,133 (final roll)	862,662
Menominee Tribe of Wisconsin.	June 17, 1954 (68 Stat. 250).	Apr. 30, 1961	3,270 (final roll)	233,881
Ottawa Tribe of Oklahoma.	Aug. 3, 1956 (70 Stat. 963).	Proclamation deferred until claim settled.[1]	630 (final roll)	0
Paiute Indians of Utah	Sept. 1, 1954 (68 Stat. 1099).	Mar. 1, 1957	232 (estimated)	42,839
Peoria Tribe of Oklahoma.	Aug. 2, 1956 (70 Stat. 937).	Proclamation deferred until claim settled.[1]	640 (final roll)	0
Ponca Tribe of Native Americans of Nebraska.	Sept. 5, 1962 (76 Stat. 937).	Oct. 27, 1966	442	834
Uintah and Ouray Ute Mixed Bloods of Utah.	Aug. 27, 1954 (68 Stat. 868).	Aug. 27, 1961	490 (final roll)	211,430
Western Oregon Indians (60 bands).	Aug. 13, 1954 (68 Stat. 724).	Aug. 18, 1956	2,081 (estimated)	3,158
Wyandotte Tribe of Oklahoma.	Aug. 1, 1956 (70 Stat. 893).	Deferred by disposition of cemetery.	1,157 (final roll)	94.36
Total			13,263	1,365,801.86

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[1] Although tribal claims determination has delayed formal termination of trusteeship of these tribes, it has been completed in most respects and tribal members are no longer receiving Bureau aid.

STATEMENT OF HON. HAROLD V. FROEHLICH, REPRESENTATIVE IN CONGRESS FROM THE EIGHTH CONGRESSIONAL DISTRICT OF THE STATE OF WISCONSIN

Mr. FROEHLICH. Mr. Chairman and members of the committee, I would like to thank you for the haste in which you have proceeded on this legislation. It is very important legislation not only to the Menominees but to the Indian Community of this Nation as well. I congratulate you on the early field hearings in Menominee County, and on your hearings here today to continue moving on this legislation.

I would like to say something very emphatically, and that is that I am for restoration of the Menominee Tribe with Federal supervision. I want to make that clear and unequivocal. Once you make that decision, you then have to analyze the results of the decision, so what I am going to talk about here today are some of the concerns by others involved in the problem of restoration.

I agree with the statement of the chairman, and I would like to associate myself with the remarks with which he opened this meeting, as to the historical events that took place and the nonconsent, really, of the Menominee Tribe to termination, the opposition of the State of Wisconsin until termination occurred, and the attempt by many Menominees since 1961 to secure restoration.

I would like to quote from an editorial which appeared in the April 24, 1957, Shawano Evening Leader. It says, "Where the

Menominee looked for help, they got evasion; where they sought concrete suggestions, they got Indian Bureau gobbledegook; where they asked constructive advice they got equivocation."

Mr. Chairman, I do not want that said about the action of this Congress, about the Bureau of Indian Affairs, about any national government organization in the process of restoring the Menominee Tribe.

I received just the other day—yesterday, as a matter of fact—from the Menominee Indian Tribe of Wisconsin, Inc. Council of Chiefs, a letter that raised questions, and a copy of a resolution which they passed raising questions about the present bill that is before us and about the bill in its original form, before I made some changes offered by DRUMS. In their correspondence, they asked for a referendum on this question.

There is a bill pending in Wisconsin Legislature requesting referendum. I do not know what type of referendum the chiefs want, but some of them are here today and I would ask the committee to ask them their opinion as to this referendum.

There are two elected officials on the letterhead of The Council of Chiefs: Gordon Dickie, a county supervisor, and Ben Miller, the County Board Chairman, who is here today. So we should be able to get some answers about this request for a referendum and the request for a delay until the Council of Chiefs has some time to offer an alternative proposal to the bill that is before us.

Mr. Chairman, I would like to have this Letter made a part of the record, and I would like to give each of you a copy at this time.

Mr. MEEDS. Is there objection?

[No response.]

Mr. MEEDS. Without objection, the letter will be made a part of the record at this point.

[The information referred to follows:]

MENOMINEE INDIAN TRIBE OF WISCONSIN, INC.,
Neopit, Wis., June 24, 1973.

Hon. HAROLD FROEHLICH,
Member of Congress,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN: The Menominee Indian Tribe of Wisconsin Inc., through its Council of Chiefs, hereby attach a resolution approved, reflecting its position on legislation in Congress affecting the Terminated Menominee Indians.

We appreciate your bill HR 7421, introduced in the House, such bill may have been at the interest of a pressure group called DRUMS, a local Menominee pressure group who have been collecting money from foundations and church groups to further individual ambitions and now are at the crossroads of reality. It is hoped your office will be open to further approaches for a substitute bill that we believe will be equitable to the Menominees and other citizens owning property in Menominee County, as so recognized by the Council of Chiefs.

We believe also that a referendum clause should be so provided, to give eligible voters, to express their desire as to the degree of self-determination, which will be a provision of our proposed bill.

Conflicts of interests are paramount at this time and it is advised until the Council of Chiefs, under the Menominee Indian Tribe of Wisconsin, Inc., can with proper counsel, draft a workable bill for action, we hold that no committment by our group is so registered only to await a new phase as a substitute bill can be introduced.

Please contact us for the degree such progress or inhibitions may appear at your office, or call us.

Legend Lakes and other citizens have the confidence of the Chiefs after appropriate meetings between us. We register this with your office and may so consider as opposed to the DRUM factions sponsored by outside interests for collecting funds. Please be aware of these contributions as they are not Menominee inspired or publicly known.

Mr. Congressman, we believe it will take an assume a period of two years or more to accomplish an intricate application of fixed law to correct features of the Termination law on Menominee Indians and other citizens of the County who own property, that require in good faith its progress and obligations. It is respectfully requested that in view of conflicting self interests, that your office look forward to determine, such funds do not affect your office because of these "fund pressures".

This should be a part of the record on such bill, awaiting further legal position and research affecting Menominee County, State and Federal level.

We shall respect your interest in this case.

We remain Sincerely,

ATLEE A. DODGE. *Secretary.*

RESOLUTION

Whereas the Menominee Indian Tribe of Wisconsin, its enrolled members and tribal properties were terminated from Federal supervision by an Act of the United States Congress, approved June 17, 1954 (Public No. 399—83rd Congress, 2nd Session) as amended, effective April 30, 1961, and

Whereas the Menominee Indian Tribe has faithfully and diligently and by long suffering care made sincere efforts to carry out the mandate of the United States Congress to assume and absorb the responsibilities for the control of tribal properties and service functions formerly administered under the supervision of the United States, and

Whereas the Menominee Indian Tribe, in compliance with the provisions of the Menominee Termination Act, formed a business corporation known as Menominee Enterprises, Inc. under the laws of the State of Wisconsin for the control and management of tribal assets and secured the necessary legislation in the Legislature of Wisconsin for the creation of the 72nd County out of the former Menominee Indian Reservation to establish an orderly system of local government, and

Whereas the individual shares of common stock of the Menominee Enterprises, Inc. will become legally negotiable on December 31, 1973, the State law prohibiting sales of such securities on date aforementioned expiring, which will create dim prospects of holding intact the control and ownership of tribal heritage of properties historically held by the Menominee Indians for over 100 years, sales of such securities can result in chaos among the people, and

Whereas after twelve years of Termination, we experience the rising costs of local government, particularly in the fields of health, education and welfare, as well as other areas, just after the expiration period of June 30, 1971, when all Nelson-Laird Federal Aids have been cut off, such loss of these aids do reflect an economic strain on Menominee Enterprises, Inc., which entity must bear the major share of the tax burden and as is evident by a financial crisis which forced the sales of substantial acreage of land on lake fronts thereby reducing land assets, and Menominee Enterprises, Inc. is the principle source of employment of the Menominee people, and

Whereas at Termination date and prior thereto, the United States did not conduct any exploration or cause to be undertaken a geological survey of Menominee lands to ascertain if such lands contained oil or any underground mineral properties, and

Whereas termination legislation has proven by experience to lead to disastrous economic and social demoralization among the American Indian Tribes as well as its effect on the Menominee Indians, as witness the tragic catastrophe of the Klamath Indians of the State of Oregon, once a proud Indian Tribe, has now lost its identity and properties, and

Whereas the President of the United States, Richard M. Nixon, under date of July 8, 1970, issued a press release outlining a new Indian policy, addressed to the Congress, in which the President condemns "termination is morally and legally unacceptable, it produces bad results and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups I am asking that Congress pass a new Concurrent Resolution, to repudiate and repeal the termination policy expressed in House Concurrent Resolution 108 of the 83rd Congress and the new Resolution would explicitly affirm the integrity and right to continued existence of all Indian Tribes and it would guarantee that whenever Indian groups decided to assume control or responsibility for government service programs, they could do so and still receive adequate Federal financial support and I affirm for the Executive branch—that the historic relationship between the Federal government and the Indian communities cannot be abridged without the consent of the Indians", and since the new policy so advocated manifests a ray of hope to the Menominee Indians, who are presently in great despair, as a result of Termination, now seek remedial Congressional legislation, Now therefore we here highly

Resolve, That the Council of Chiefs of the Menominee Indian Tribe of Wisconsin, Inc. in a regularly scheduled meeting convened at Keshena, Menominee County, Wisconsin, this 13th day of June, 1973, do hereby respectfully petition the President of the United States and the Congress of the United States, through the members of the Wisconsin Delegation in the Congress, for legislation repealing certain provisions and language of the Menominee Termination Act approved June 17, 1954 (Public No. 399—83rd Congress, 2nd Session) as amended, be further amended and that new legislation be pursued as is necessary to accomplish the purposes set forth as follows:

1. New legislation to provide for the creation of a Federal trust; that all individual shares of common stock issued by Menominee Enterprises, Inc. and held by Menominee Indians be immediately transferred thereto and to be so held in trust until the year 2003, Provided that rules and regulations be established for an orderly transfer.

2. New legislation to provide that all service functions of Health, Education and Welfare for the benefit of the Menominee Indians be reestablished and be a part of the regular service functions and responsibility of the United States the same as enjoyed by other Indian Tribes including the administration and supervision thereof.

3. New legislation to provide for a scientific geological survey of Menominee Enterprises, Inc. lands to ascertain whether these lands contain any potential oil, gas or mineral deposits, such survey to be conducted and financed by the United States.

4. Repeal legislation. Legislation to provide for the repeal of the provisions of the Menominee Termination Act wherein such language or provisions excludes the Menominee Indian Tribe or its members from the benefits of Health, Education and Welfare under regular government appropriations and to further repeal any provisions or language of said Act which is designed to abolish Menominee Indian Tribal identity or its members and to repeal further language or provisions in conflict of the proposed new legislation,

5. That persons having one-fourth degree or more of Menominee Indian blood be admitted to the Menominee Indian Rolls and that such member shall enjoy the privileges under treaties between the United States and the Menonimee Indians: provided that the Final Roll approved in 1954 as proclaimed in the Federal Register shall be the basis of determining quantum of Menominee Indian blood.

6. That a sub-Indian Agency be created in Menominee County, Wisconsin, under the Department of the Interior for purposes of supervising the administration of appropriations made by the United States Congress and for future functions allocated to such Agency; Provided, that qualified Menominee Indians be employed under such Agency.

And be it resolved further, That copies of the foregoing resolutions be forwarded to the following:

- The President of the United States, Richard M. Nixon
- Each member of the Wisconsin Delegation in the Senate and House of Representatives of the United States Congress
- Chairman of the Interior & Insular Affairs Committee of the United States Senate
- Chairman of the Interior & Insular Affairs Committee of the House of Representatives

Secretary of the Interior
Menominee Indian Study Committee (Sen. Reuben LaFave, Ch.), Madison, Wis.

COUNCIL OF CHIEFS, MENOMINEE INDIAN TRIBE OF WISCONSIN, INC.
ALOYSIUS M. FRECHETTE,
Principal Chief.

GORDON DICKIE SR.
VYRON DIXON SR.
ATLEE A. DODGE
MITCHELL A. DODGE
JAMES G. FRECHETTE
JEROME A. GRIGNON
BENJAMIN MILLER
LAWRENCE A. RICHMOND SR.
HILARY J. WAUKAU SR.
GORDON P. WAUPOOSE
LEE A. WHITE SR.

Mr. FROEHLICH. New, Mr. Chairman, after restoration occurs we will have a situation where we have a county in Wisconsin that will have most of its property tax-exempt. We will have a county that includes a substantial amount of land owned by non-Menominees, people who bought their land during a period of time when reservation status did not exist, who purchased land in a normal town in a normal county under the laws and constitution of the State of Wisconsin. They bought this land when they were entitled to fishing with a State license on the lakes upon which they owned property. They bought this land at a time when the interested individuals and property taxpayers of Menominee County consisted of not only non-Menominees, but the Menominees themselves, paying a substantial portion of the taxes in this county.

Those taxes were largely paid by the Menominee Enterprises Corp., which was formed to take the assets of the former reservation lands and to preserve them as best they could under the circumstances.

In the 1972 assessment, MEI land constituted 48.57 percent of the taxable property and land in the county. After restoration, that taxable property will be removed from the tax rolls. In addition, under this bill, each individual Menominee has the opportunity to transfer the land that he owns in fee simple into trust, making it exempt. Many Menominees will do this. Some will not. That land, as I understand it, constitutes 7.79 percent of the assessment of 1972.

And then we have the non-Menominee property owners who own $15,575,620 worth of assessable property, which now constitutes 43.64 percent of the 1972 assessment.

When you give the option to this other 56 percent to become tax exempt, you are then creating a situation in which you have the Menominee people electing the county board and electing the town board, and following the elections, setting the tax rate and assessing the tax on the largely non-Menominee property taxpayers.

There are those who would prefer, quite frankly, to get the white man out of Menominee County. That feeling has been expressed, from time to time, and it has been quoted in the newspapers. I quote from a August 31, 1969 story in the Green Bay Press Gazette where it is expressed as follows:

> The feeling was expressed strongly that all outside people, which can be equated as all white men, should be forced to leave the county and leave control of the Menominee lands in the hands of Menominee people.

Then, just this past week, there was an attack upon current leadership of the Menominee Enterprises, and the individual indicated as follows: He said his group will work to regain the land: "We feel it was sold illegally," and we will enforce all hunting and fishing laws against outside non-Menominees, "and work entirely at all times to bar any family group from again gaining control of our people and our tribal possessions."

I offer these two quotes, members of the committee, as indications of some of the background and some of the reasons for concern by the non-Menominee property taxpayers who purchased land in that area. Needless to say, some of the Menominee property taxpayers are also very concerned about what will happen after reservation status is determined.

When I first got involved in the introduction of this bill I wanted to make the bill contingent upon a restoration of local government structure that existed prior to termination. That meant that Menominee County would be abolished and that three townships would be returned to Oconto County and seven townships would be returned to Shawano County. In that way the people who levy the taxes would also be levying the taxes on property they own and could not use either the tax rate or the assessment procedure to harass and drive people out if, in fact, a controlling group of the county board decided to do that.

I am not saying that is going to happen. I am saying that it is a possibility that exists and that should be protected against to make all feel comfortable with restoration.

Now, there were questions asked by this committee in Keshena as to how many parcels of land have been sold off. I do not have the total figures, but I will give you a listing of the information that I was able to obtain from the Legend Lake Property Taxpayers' Association, the Moshawquit Lake Property Taxpayers' Association, and the LaMotte Lake Property Taxpayers Association. There are some other areas that have been sold off, at Round Lake, I understand, and one at Wolf River. There have been a few lots sold, but in these three lakes there were approximately 2,500 lots available for sale. There are 1,930 property taxowners of these lots. Some lots are still retained by Menominee Enterprises. There are 70 full-time residents, and there are, I understand, 33 non-Menominee children in schools. There are 385 improvements on these lots at the present time, making up the assessment of $15 million.

My concern when drafting this bill was to try to prepare a bill that would satisfy all interested parties. I have come to the conclusion that this is impossible.

Then, the next thing we have to look at is how do we accomplish the overall objective, obtain restoration, and still provide some protection for those who bought, in good faith, during the years the lands were being sold. I tried to condition the bill upon the restructuring of local government as it existed as the proper protection. That was not acceptable to the individuals who were representing the Menominee interests, and, in an effort to get a bill introduced, we all accepted a paragraph that was not acceptable to the Menominees and was not particularly acceptable to me. This provision delayed the trust land—the forest lands—going into trust for 2 years. It was a compromise to get the bill introduced.

It is my position that this 2-year delay could be taken out of the bill because we have now found a way to give the protection without immediately restructuring local government. The Menominee Indian Study Committee, which was created by the State of Wisconsin to work with the Menominees to consider their problems as termination went along, and to help them after termination, had a meeting in Madison some time ago; and they agreed to support the wording of an amendment drafted by Dr. Rupert Theobold, our legislative draftsman in Wisconsin, that will permit the State of Wisconsin to adjust or restructure Menominee County if and when needed.

Under the present law, unless this wording is in this bill, there can be no restructuring of Menominee County by the State of Wisconsin because of the Wisconsin constitutional provision prohibiting a restructuring without a referendum in the county. This new wording in the Federal law will supersede the Wisconsin constitution and allow for the restructuring of local government, if and when that is necessary, based on whether or not the county is viable, and whether there is some injury to non-Menominees who are then being taxed by the individuals whose land is tax free.

With this addition to the bill, the 2-year delay, in my opinion, can be removed.

Now, another portion of the bill that is objected to by some of the Menominees—and is part of the compromise—is the section dealing with fishing rights. There are four lakes that are mentioned, the Legend Lakes, Moshawquit Lake, La Motte Lake, and Round Lake, where the sales have occurred, and where individuals have purchased lands. These people bought in good faith in the period that sales were being conducted while there existed a county government and a town government, and while these lakes were a part of the public trust of the State of Wisconsin. The only restriction on fishing on these four lakes at that time was that a State fishing license be purchased by non-Menominees. The Menominees themselves do not have to buy a fishing license from the State of Wisconsin, because the Supreme Court upheld their long-term fishing rights without a license. But as to the non-Menominees they have to have a fishing license to fish on these lakes.

I think this regulation should be preserved for those four lakes where a large number of block sales around the lakes have taken place, and where most of the lot owners around the lakes are non-Menominees. This is the reason for the section in the bill to preserve the fishing rights without regulation by the tribe of the non-Menominees who purchased property on these four lakes between 1961 and 1972. We have an example in Wisconsin—in northern Wisconsin, in my district—of a reservation where there have been substantial sales of land off the reservation. It is a mixed situation, as would exist after the Menominee Reservation is restored; and that tribe has determined that even in view of all the sales, those property owners in that county on that reservation now will have to buy a second fishing license from the tribe, and the boats will have to be licensed from the resorts to go on those lakes.

I think that the rights of those people who bought in good faith during this period of time should be protected. They should not have to license the boats or license their fishing rights through the tribe after restoration.

That is the reason for this exemption in this section of the bill.

There was also an objection to a portion that was removed from the original DRUMS draft that said the Menominees could not sell land without congressional approval.

Now, I have been told by someone that there is a general prohibition on the sale of reservation lands, and whether or not that exists, I think that the constitution of the Menominee Tribe certainly will approve a prohibition on the sale of land. That constitution has to be approved by the Secretary of Interior—yes, by the Secretary of Interior. In view of that, I do not think it is necessary to state this provision in the law. In fact, there might be an instance when, to the great benefit of the Menominee Tribe, an industry would want to locate in that county, and their one condition would be the purchase of some land. If that did occur, I would hate to lose the industrial development where jobs are so badly needed because of prohibitions against selling an acre of land to an industry.

Of course, that is a decision the Menominees should make, and it would seem to me that it just does not make sense to have them come all the way to Congress to try to get an exception for something of that nature.

That is the reason it was removed. If the committee decides to return that section of the bill, I have no great objection, but I thought that its removal was the best resolution of the question.

Mr. Chairman, if there are any questions I will be glad to try to answer them. I want to leave with you a summary that I put together on the assessment so that some of your questions as to the number of lots and residential land in the county, and the assessment will be answered, and you will have a permanent record of it.

Once again I want to reemphasize that although I have raised some questions for the protection of those who bought in good faith during this period, I am strongly for restoration and strongly for a bill of this nature.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you very much, Mr. Froehlich.

I think we will hear from Mr. Obey and then ask questions.

STATEMENT OF HON. DAVID R. OBEY, REPRESENTATIVE IN CONGRESS FROM THE SEVENTH CONGRESSIONAL DISTRICT OF THE STATE OF WISCONSIN

Mr. OBEY. Thank you, Mr. Chairman.

As I indicated earlier, I have to be out of here by 11 o'clock because of the Cambodian vote we have in Appropriations, but I would prefer if I could just read bits and pieces of my statement and then comment on a couple of statements made by the gentleman from the Eighth.

As I think most of the members of this subcommittee know, I represented Menominee County until 1972 when the reapportionment placed it in the hands of Congressman Froehlich. I am still involved because I did introduce legislation last year on the same subject, and I do feel my responsibility continues to see that bill through to completion, even though the bill before you is somewhat changed in form.

As I think has already been indicated, the basics of the bill have been agreed upon with little difficulty, and in the interest of time, I will not recite them to you now, but I do want to address myself to some of the questions which have been raised.

For instance, what will or should happen to Menominee County? It has been suggested that perhaps the bill should allow restoration to take effect only after the Wisconsin Legislature has acted to abolish Menominee County.

I think, frankly, that is the kind of congressional blackmail which got the Menominees into this situation in the first place. And I do not support it.

I know questions still remain as to what should happen with the county, but I think that those questions in the end are a matter for the State legislature and the people of that county to decide, and not a matter for Congress to decide. I believe that this committee should not require the abolition of the county before restoration takes place.

I think that to do so would mean that the Congress was simply making secondary a Federal responsibility which I believe it clearly has in the matter.

A second question has been: Will the Menominees be in a position to manipulate the local tax burden to create a huge tax burden for non-Menominees? Well, I think you have to look both at the law and at experience in other Wisconsin areas. I represent other areas in the State, where you have a majority of Indians, and they have not set up an especially onerous tax rate. In fact, in one of the townships in my district, the tax rate in that township is lower than that of a neighboring tax jurisdiction which is controlled by non-Indians.

I think the answer to that question is no. First of all, as I think the committee knows, the Wisconsin law establishes a mandatory ceiling on the total tax revenue equal to 1.5 percent of the total valuation of the county for the year as set by the department of revenue.

Secondly, with the restoration, a great deal of Federal money will be coming into the county. The BIA itself, as I understand it, has said that Menominee County would be eligible for approximately $1.4 million in services. Funds for Indian health services would be available from HEW.

Indians would be eligible for other programs, and most importantly, the school tax levy which now amounts to approximately 56 percent of the Menominee County budget, will be set by the school district and the State and not by the Menominees. That is not under the control of the Menominees in any way, and I think it therefore is improbable that any major tax increase will occur if and when Menominee lands are put into Federal trust and that land is taken off the tax rolls.

In addition there will be a reduction in the cost in maintenance of roads.

The Shawano School District will get education funds through Johnson-O'Malley, and through impact aid, and I know the county officials themselves have looked at this question. Mr. Ben Miller has been mentioned here. I understand he is in a jam this morning because he brought all his papers on American Air Lines, and American Air Lines seems to have misdirected his baggage. I think we have all gone through that, but I think he will tell you, ad lib, nonetheless, that it is just likely their taxes will go down rather than up in the county.

Now, what about the 2-year provision? As has been mentioned the assets of MEI would not be put in trust for 2 years. I agreed to the provision for the purpose of introduction, as Congressman Froehlich has indicated, but I do not personally favor it. As I indicated earlier, unless the Menominee lands are put into trust and become Federal lands, school districts with Menominee Indian children would not be eligible for impact aids. That would be an unnecessary burden on the Shawano School District.

It has also been pointed out that section 8, which is in the bill, could be interpreted by the State as an indication that it has no responsibility for Menominee children through our State equalization school aid formula, and obviously that is not our intention.

Secondly, even more importantly, the 2-year provision takes a big risk with the assets of Menominee Enterprises, Inc. That stock becomes negotiable on January 1, 1974, and I know it is assumed by a great many people that the legislature would extend the nonnegotiability of that MEI stock, but the fact is, there are legal questions as to whether the State can extend it, and if it does become negotiable, it is not beyond the realm of possibility that it could be an attractive item for timber companies because of the Menominee forest lands and the assets of the corporation could be dissipated within a very short time. I think that ought to be avoided at all costs, and I think therefore it is imperative that this legislation be passed before the end of the year.

Thirdly, it seems to me that some of those who support a 2-year delay do so at least in part to see what is going to happen in the county after restoration occurs. But we will not really know very much about what is going to happen in restoration until restoration, in fact, does occur. We have to have restoration to find out what in fact is going to occur.

So, I do not think that that argument lies. Frankly, I am no lawyer—I kiddingly tell my lawyer friends that everytime someone suggests that I am one, I stand up and defend my character, but I do not know what the language of Mr. Theobold's suggestion really means, and I would prefer that you discuss that with people who are lawyers who will testify later.

As I understand it, the State constitution requires that there be a referendum in Menominee County before that county could be abolished, and that is the interpretation which I will stick to until a good lawyer can show me otherwise.

Will property rights be jeopardized? I think the answer here is clearly no. This legislation does not convey property rights to Indians or to non-Indians. Lands which were formerly part of the reservation but which have since been sold to private individuals will in no way be affected by this bill.

The court suits have been mentioned, both at the earlier hearings in Menominee County and here today, but the fact is those questions will be decided by the court regardless of whether this bill ever moves out of this committee, and that question is completely separate from the legislation here before you today.

Now, why is the bill necessary? I think I can shortcut that answer simply because of the great increase in Federal funds which will become available to the Menominees. Menominee Enterprises would be freed of a property tax burden in the neighborhood of $700,000 a year, and I frankly doubt that Menominee Enterprises could make it unless that burden is removed.

The fact is that MEI has had great difficulty meeting its obligations over the past years, and the fact that the temporary timber shortage has put them into the black for a couple of quarters on a temporary basis just recently should not be taken as an indication of Menominee Enterprises' long-range ability to survive. That mill is old. I think it is 65 or 70 years old. It needs modernization. Parts of it will need replacement. It has no significant reserves and is operating on a shoestring that will not get any stronger.

In fact, to the extent that Menominee Enterprises has stayed on its feet, it has been due largely to the sale of Menominee lands. Those sales have now all but stopped.

I think it is important to keep in mind what the BIA report on the economic conditions in Menominee County pointed out. That the report said, and I quote, "without the development of additional sources of income or without significant reduction of other costs, analyses indicated that MEI will be in a very serious financial position before 1975."

In short, the Menominees' position or the position that the Menominees are in is this, either they have to sell their land or they have to risk going under. I do not want to see them sliding into either alternative, and the Menominees have gone to great lengths to keep their land in the past. It was, for example, never allotted.

The passage of this act would mean that they would not have to sell their land again, and the Menominees now in the county would be able to pass lands on to their children just as they receive it from their parents.

I want to make a couple of points before I close. Congressman Froehlich inserted in the record a letter from Mr. Dodge. I think the implication was left that the Council of Chiefs in fact supports a 2-year delay. The fact is that submitted to the Wisconsin Congressional Delegation along with the letter was a resolution, and I would like to make that resolution a part of the record, because I think it indicates something quite different from the letter.

Mr. FROEHLICH. Mr. Chairman, the resolution is attached to my letter.

Mr. MEEDS. Without objection the resolution will be entered.

Mr. OBEY. The fact is that Mr. Dodge signed that letter for himself, and if you will take a look at the names on the letterhead, you will see that a good number of them have signed the resolution.

In fact, some of them have testified before your committee in Menominee County against the 2-year provision and I think that should be clear.

I also would just like to say just one thing in closing. Mel Laird represented Menominee County before I did, and now Congressman Froehlich has succeeded me in that position, and Mel Laird tried to stop termination when it was first brought to the Congress. He didn't succeed. I tried to help begin the process of reversal of termination last year, and now Congressman Froehlich and I have joined—albeit with somewhat different emphasis—to try to complete that process. I hope that we will be successful in undoing what Mel Laird tried to prevent a long time ago. If we are, it will not necessarily reflect, I am sure, that we have been more effective than he was. It will simply indicate there is a new climate across country which recognizes that the termination policy which the original legislation was based on was a mistake, both socially and economically. I hope that this subcommittee can see fit to report that bill out, and I am sure that they will.

Thank you very much.

Mr. MEEDS. Thank you very much, Congressman Obey.

Mr. Froehlich, I would like to begin, if I may, with an examination of this letter and resolution to which you referred, and which was submitted. It is rather clear that the resolution expresses the intent of the board of directors and Council of Chiefs since they signed it—assuming they are not forgeries. All but one of them signed it as I see here.

Mr. FROEHLICH. There are two blanks where they did not sign it, Mr. Chairman.

Mr. MEEDS. So you agree with me that that at least is the resolution of all those people that signed it?

Mr. FROEHLICH. Yes. I take no position on that except to put it in the record and indicate that the original letter——

Mr. MEEDS. Well, you put it in the record, now. You know, when a witness puts something in the record, it at least means that he takes some stock by what it says. Right?

Mr. FROEHLICH. Right. The letterhead includes many of the leaders Menominee County of past and present.

Mr. MEEDS. Right.

And many of the names of the Council of Chiefs on the Menominee Indian Tribe of Wisconsin, Inc. letterhead are also on the resolution.

Mr. FROEHLICH. That is correct.

Mr. MEEDS. In fact, almost all of them are.

Mr. FROEHLICH. That is right.

Mr. MEEDS. Yet the letter accompanying the resolution and which appears to me to be contrary to the resolution, is signed by only one man, Mr. Dodge.

Now, can you tell me whether the other people whose names appear on the letterhead agreed with the content of the letter accompanying the resolution?

Mr. FROEHLICH. I have no knowledge of that, Mr. Chairman. I received the letter in the mail yesterday. It was a correspondence forwarded by one of the officials of the Council of Chiefs, with the accompanying resolution. The resolution and the letter speak for themselves.

Mr. Meeds. So it could be then simply the feeling and position of Mr. Dodge.

Mr. Froehlich. It very well could be.

Mr. Meeds. Since this is the only signature affixed to the letter.

Mr. Froehlich. It very well could be.

It could be the opposite, too. It could be the feeling of the Council of Chiefs. That I do not know. We have witnesses that will appear here today, Ben Miller particularly, who can answer that question for us.

Mr. Meeds. I hope so, but in any event, we must assume, at least at this time from the record before us—and again assuming that they are not forgeries on the resolution—that that is the collective intent with the exception of the two people who did not sign.

Would you agree to that?

Mr. Froehlich. Yes.

Mr. Meeds. Now, you are aware of what the property tax ceiling is presently in the Menominee County, Mr. Froehlich?

Mr. Froehlich. There is a limitation in the statutes as to Menominee County. It applies only to Menominee County and it limits tax to 1.5 percent of the assessment of the equalized valuation set by the State of Wisconsin. The limitation is relatively meaningless, Mr. Chairman, because it is set very high. There is no county in Wisconsin that taxes 1.5 percent of the equalized valuation for county purposes.

If you had a $60,000 piece of property—and some of the property owned by non-Menominees is in that price range—1.5 percent of that—$900—is for county purposes alone. Then you can add three-fourths of a percent for town purposes. That would be $1,350. And then you add $600 to $800 for school purposes. You have over $2,000 in taxes, and that, I contend, Mr. Chairman, on that type of property in Wisconsin with the governmental services offered, is excessive taxation.

Mr. Meeds. Where the town and the county are one and the same, is not the limit 1.5 percent?

Mr. Froehlich. No; the town and county are not the same. There is a town government. There is a county government. Each has its limitations. The county government is 1.5 percent. The town government is three-fourths percent.

Mr. Obey. Mr. Chairman, may I comment on that?

Mr. Meeds. Yes.

Mr. Obey. I think you have to keep in mind, in addition to that limitation, however, that Wisconsin also has a uniformity of taxation requirement. Because this bill does not require the land of individual Menominees to also be folded back into trust under the Federal Government in fact if this runaway taxation that some people have in their minds would take place, that taxation could apply to Indians as well as whites, and I think that ought to be clear.

Mr. Meeds. What I am trying to get to, if either one of you gentlemen know, what is the present tax? I hope that we have a witness today that can answer.

Is it 1.5 percent?

Mr. FROEHLICH. No. I do not know what it is.

Mr. MEEDS. Now, you are a taxpayer there.

Mr. FROEHLICH. That is correct.

Mr. MEEDS. Generally people know how much taxes they are paying.

Mr. FROEHLICH. I tried to find my tax bill this morning to get the exact assessed rate, and I could not find it. Having moved to Washington that tax bill kind of got lost in the move.

Mr. MEEDS. Well, was it 1.5 percent in Menominee County and Menominee City, the boundaries of which I understand are coterminous.

Mr. FROEHLICH. That is right, but they are two different governments. The county government is another government with certain responsibilities in Wisconsin. There is a county board chairman, there is a county board which runs the county. There is a town board chairman and a town board that runs the town. These may be the same individuals, but they have certain different functions.

Mr. MEEDS. And the other taxes you talk about——

Mr. OBEY. Mr. Chairman, I think I have the answer for you.

Mr. MEEDS. Just one moment until I finish my question, please.

The other tax that you talked about, the school tax, is not controlled by the residents of Menominee County at all, is it?

Mr. FROEHLICH. No, with the school tax——

Mr. MEEDS. They would be a minority in that assessment, would they not?

Mr. FROEHLICH. That is correct, but the school tax is a large tax which is paid, and when you are talking about total tax bills you would have to add the school tax to the high limitation on county taxes, and the high limitation on town taxes to get a total tax bill.

Mr. MEEDS. I am not directing myself, however, to your apprehension that the Menominees, were they in control would tax the white owners out of existence.

Mr. FROEHLICH. I am not making that as a statement. I am talking about——

Mr. MEEDS. I am just cutting through the frills and coming right to the issue, and I think it is a valid question. They do not have control, then, over the greatest portion of the taxation that rests in Shawano County.

Mr. FROEHLICH. That is correct.

Well, there is a joint school district.

Mr. MEEDS. There is a joint school district.

Mr. FROEHLICH. Right.

Mr. MEEDS. Now, Mr. Obey, you had an observation you wanted to make.

Mr. OBEY. The tax rate for the county was 10 with a limitation of 15.

Is that right?

Mr. MEEDS. Two thirds, then.

Mr. OBEY. Yes. In the township I think the figures point out how unused that township taxation power has been and is likely to remain because the township tax is 0.56, so it is almost nothing.

Mr. Meeds. Now, are you aware, Mr. Froehlich, of the benefits which could become available to the county or to the reservation after restoration?

Mr. Froehlich. I am in a general way knowledgeable about the benefits for health and education that would be available, but we have no specifics. We have no one that has put together a model of what would exist after restoration to show us how much impacted aid, how much educational monies would come in, how much health monies would come in. This bill, Mr. Chairman, does not answer the question—we have no answer to the question as to how many remaining people do not qualify for Federal benefits after restoration.

This bill says that every Menominee of a quarter blood or more will be put back on the rolls. Those put back on the rolls become eligible for the Federal educational benefits, for the Federal health benefits, but those that are less than a quarter percent would remain, if they were welfare cases, on the county or the town. The town has a responsibility for general relief, and the county has a portion of the costs for categorical aids.

Mr. Meeds. Mr. Ottina, the Commissioner of Education, is going to testify today; but my understanding is that there are 1,054 Menominee school children grades, 8 through 12. The costs of education in Wisconsin are approximately average costs. They are somewhere in the area of $900, not including capitalization costs. So just a horseback guess would be, that under impact aid formula, they would get somewhere in the area of $520,000 for those children.

Were you aware of that?

Mr. Froehlich. If all those children qualify, if they are all more than a quarter blood.

Mr. Meeds. The question is, would they qualify under impact aid, not under this bill, and do they live on an Indian reservation. They could even be white children and receive impact aid. So there is no blood quantum requirement there at all.

So we are talking about $527,000 just for the Menominee children that would go to the district as impact aid. You would lose over $1 million because of your proposal for a 2-year lag.

Mr. Froehlich. Mr. Chairman, I have already indicated to this committee that the 2-year clause was included under negotiation. The real issue was restructuring a local government. I have no objection to removing that 2-year delay.

As I indicated in my testimony previously——

Mr. Meeds. Well, wasn't that under the proposal to abolish the county?

Mr. Froehlich. I said there would be no need to abolish the county with the new wording that is supported by the Menominee Indian Study Committee and was put together by our legal drafting expert in Wisconsin, Dr. Rupert Theobold, that would allow the State government, the State legislature, if the need occurred, to restructure local government, as they had power to restructure local government when the termination occurred.

When termination occurred, the State government restructured local government specifically to include Menominee County. Menominee County is the only county in the State with only one town in it, and so the legislature was able, based upon the need and the goals to restructure, and it did so.

Now, all I am saying in this bill is that I support the Menominee Study Committee and Rupert Theobold's draft that allows the State of Wisconsin to restructure, if and when the case occurs—if such a need develops. Then, this 2-year clause can be taken out.

Mr. Meeds. It would not require any change in the Wisconsin constitution?

Mr. Froehlich. No. All I can tell you is what the legal expert from Wisconsin says.

Mr. Meeds. And he will testify later today.

Mr. Froehlich. He can testify. He is here for information purposes. He is not scheduled to testify.

Mr. Meeds. Well, I hope he will remain available.

I have taken too much time.

Mr. Obey. Mr. Chairman, I have to leave to get back to the Appropriations Committee meeting for a vote on a fund cutoff for U.S. military activities in Cambodia. I will be happy to come back to answer any questions that you might have this afternoon.

Mr. Meeds. That you very much.

Mr. Lujan. Mr. Obey, before you leave, could I just get into one question that——

Mr. Obey. Well, we have a vote right at 11. If I can do it in 30 seconds, yes.

Mr. Lujan. Go ahead. We will do it some other time.

Mr. Obey. I will be back this afternoon, Mr. Chairman.

Mr. Lujan. I might ask, Mr. Froehlich, I gathered from your testimony, that if someone were inclined to make property taxes very, very high, excessive, so that someone would not be interestd in owning that land anymore, your testimony has shown that they could raise—I use the example of a $60,000 home, to $2,000 per year in taxes.

Mr. Froehlich. That is correct.

Mr. Lujan. Which I would consider excessive.

Now, I think that is one of the concerns, one of the problems that the legislation may have. In order to remove that particular problem, is it feasible to move those private lands out into another county and leave it virtually—you could not leave all of the reservation just in one county, or I suppose you could, but it would be perhaps impractical to do so—that some of the reservation that may lie between the adjoining county and those private lands, just take those areas and move them over into another county.

Do you think that that would be acceptable to the Menominee Tribe?

Mr. Froehlich. Well, I oppose that as an alternative to abolishing Menominee County and found that there was no acceptance of the idea of taking a proportion of what is now Menominee County and either attaching it to the adjacent Oconto or to the adjacent Shawano Counties. Geographically it is possible bcause most of this devlopment, Moshawquit, La Motte and Legend Lake is in the southeastern corner of Menominee County. That still would not address itself to a few parcels of land that have ben sold to non-Menominees along the

Wolf River, and so there would be some parcels that you could not include in a proposal such as that.

A large portion of them you could, but at the time that we discussed it, at the time that we were negotiating on local government structure, it was not acceptable to the people I talked to, the people who represented the present elected leadership of the corporation and Menominee Enterprise or the, DRUMS leaders.

Mr. LUJAN. Could you tell me why it was not acceptable?

Mr. FROEHLICH. I guess the statement made at that time was that there are some Menominees on these lakes. The statement that was made was that they would not go along with any restructuring that put some Menominees in the minority.

Mr. LUJAN. What about those Menominees that live on private land?

What is their feeling on being united?

Mr. FROEHLICH. Well, some of them are certainly concerned over retaining their land, and there are many parcels of land, I am told, that are delinquent in taxes. Those particular individual Menominees are anxious to transfer their lands to trust so they can get out of this tax burden.

Mr. LUJAN. But they could still be part of the reservation and give them back anyway, even if it was not in one county.

Mr. FROEHLICH. Yes, absolutely.

Mr. LUJAN. Let me ask you one other question.

Is the Wisconsin legislature in session now?

Mr. FROEHLICH. Yes, it is.

Mr. LUJAN. Would it be conceivable that if such a provision is endangering the passage of this legislation, that the Wisconsin legislature could make this division even right now and say, all right, we do not have that problem anymore? Let's go on with the rest of the legislation?

Mr. FROEHLICH. With the consent and support of the Governor of the State, that could be done very quickly. The Governor will be here to testify following my testimony.

Mr. LUJAN. I have no further questions, Mr. Chairman. Thank you.

Mr. MEEDS. I have one more question.

Are these areas, principally Legend Lake and Moshawquit and areas like that, coterminous or contiguous to the Shawano or Oconto counties?

Mr. FROEHLICH. Well, they are in Menominee county but they are really in the southeast corner very close to either Shawano or Oconto.

Mr. MEEDS. Are they contiguous to either one?

Mr. FROEHLICH. The lakes themselves?

Mr. MEEDS. Yes.

Mr. FROEHLICH. No, there would be some reservation land between the lakes and Shawano County. Moshawquit is almost a stone's throw from the Oconto County line. That is the most easterly lake of the bunch.

Mr. MEEDS. Now, aren't there some problems with present Wisconsin laws permitting the establishment of taxable land townships. In other words, do you not have some problems in the legislature with attaching that part of the present county of Menominee to either Shawano or Oconto County?

Mr. FROEHLICH. Well, if one were to try to pick up just the parcels of land that were sold to private owners after the reservation was reestablished, and try to say that the reservation was not in the county, and these islands of parcels in a county, that is impossible. You see, the whole reservation has to be in some county or in more than one county. You know, county government exists throughout Wisconsin, and all reservations are in a county.

So if you are talking about county government, there is no way to take the reservation out of the county, but you can—you could conceivably draft legislation on a uniform basis as was done to create the one town in Menominee County, to create just in Menominee County a town created out of these parcels of land. That is feasible and possible in my opinion.

Mr. MEEDS. Okay. I think that is all the questions I have.

Thank you very much, Mr. Froehlich.

Mr. FROEHLICH. Thank you, Mr. Chairman.

Mr. MEEDS. Our next witness is the Honorable Patrick Lucey, Governor of the State of Wisconsin.

Governor Lucey, please come forward.

We are indeed honored to have you here to testify on this matter today. We appreciate your taking your time from your very busy schedule to do so.

Prior to your testimony, I ask unanimous consent that the record be open for statements to be submitted by the cosponsors of the bill.

Without objection, so ordered.

[The statements referred to follow:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to express my full support for H.R. 7421, which would once again make the Menominee Indian Tribe of Wisconsin a federally recognized tribe.

This legislation would go far towards remedying the injustices caused by the government's unfortunate policy of termination of Indian tribes, of which the Menominee Tribe became victim. It would restore to this tribe the desparately needed federal services available to other Indian tribes in the country and would give the members of the tribe the right of self-determination.

As a co-sponsor of this bill, I would respectfully urge all my colleagues to support this effort to reverse the policy of termination and restore the full rights of the Menominee Indian Tribe.

Very truly yours,

YVONNE BRATHWAITE BURKE,
Member of Congress.

STATEMENT OF HON. ROBERT W. KASTENMEIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman, I appreciate this opportunity to testify on behalf of H.R. 7421. The Menominee Restoration Act which I have co-sponsored. It is my belief that this piece of legislation is one of the most important that shall come before this subcommittee during the 93rd Congress.

In 1954 the Federal Government terminated the tribal and reservation status of the Menominee Indians of Wisconsin. Under the guise of providing an opportunity for self-determination the government totally abandoned the tribe. All of the long-standing provisions for the protection and maintenance of the Menominee life-style were discarded with no substantive discussion with the Indians, and a complicated corporate life-style was thrust on them. In effect, an experiment was conducted on the Menominee, an experiment that has had tragic and disheartening results. The time has long since come for a total and speedy restoration of tribal status to the Menominee. I have co-sponsored and strongly support the Menominee Restoration Act and will work actively to ensure its enactment.

The termination policy, begun following a deceptive and superficial explanation to the Menominee, has been a complete disaster to the tribe. Under the federally ordered plan the Menominee have lost their liquid assets. They have lost their hospital and school. They have been economically forced to sell large portions of their land. Unemployment in the Menominee community is at 26%, higher than anywhere in Wisconsin.* The average per capita income of the tribe is $1.028, less than a third of the Wisconsin average. More than 75% of Menominee children never finish high school. Proper medical and dental care is no longer available in the community. Home value in Menominee County is one third of the state's average. What was once the Menominee Indian Reservation, a relatively prosperous reservation full of hope and possibilities, has become Menominee County, Wisconsin's poorest. The Menominee have even been denied their most valued possession, their cultural and historical identity. Termination has ordered that no new names be added to the official Menominee Tribal Roll. Children born to the tribe since the roll was closed are simply not official Indians. I can think of no better description of this practice than that which was offered by Ms. Ada Deer, a Menominee leader, who labeled termination, "cultural genocide".

The Menominee Restoration Act will return the Menominee's century old treaty rights, services, and protections. It will return all services provided by the BIA, including education, health, utility, and medical services. The Act will re-establish Indian Tribal status, opening the rolls for continued growth of the tribe. The Act provides for the election, by the tribe, of a nine member Menominee Restoration Committee to oversee the implementation of the Act. Also, a referendum to determine the tribe's constitution and the free election of officers is provided for. The Act will finally end a senseless policy that is abhorent to the majority of Indian people

Further, I urge that the Act be implemented as soon after enactment as possible, rather than after a two year transition period that is currently recommended. The Menominee crisis is so grave that a two year delay would bring considerable hardship. We must re-instate our moral and treaty obligation to the Menominee as quickly as possible.

Hopefully, speedy House action on this bill will bring an end to the monumental mistake that termination has been for the Wisconsin Menominee.

STATEMENT OF HON. JULIA BUTLER HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

The Menominee Restoration Act, H. R. 7421, is legislation which should be enacted by this Congress because it will repeal an earlier act terminating Federal supervision over the Menominee Indian Tribe of Wisconsin. It will restore the Menominee Reservation and return the tribe to full Indian status.

While legislation enacted in 1954 terminating supervision of the tribe was carried out with the best intentions, the consequences of such a measure were not realized at that time either by the government or the Indians involved.

Now it is realized that the earlier action was a mistake. The tribe should be restored to their proper place and this grave error of judgment corrected.

H. R. 7421 will assure the Menominee establishment of their own committee to represent the tribe in bringing about the restoration. It will also assure this generation and future generations that their land will be protected, that they will enjoy the benefits from these properties. It, too, will assure increased Federal funding for education of their children, and the tribe will be eligible for housing loans and health benefits.

May I join, as a co-sponsor of this legislation, in urging its enactment. It will correct a situation that caused the members of the Menominees great anguish and suffering.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. LLOYD: I would like to acknowledge my co-sponsorship of H. R. 7421, legislation to restore the Menominee Tribe to the status which it had before the Tribe was terminated from all federal supervision and benefits.

I respectfully urge the Committee's expeditious consideration of this legislation.

With warmest personal regards,
Sincerely,

PHILIP E. RUPPE, *Member of Congress.*

STATEMENT OF HON. EDWARD J. DERWINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman: As a cosponsor of H.R. 7421, I strongly urge favorable subcommittee consideration of this measure.

My interest in this legislation stems, in part, from personal knowledge of the problems that have beset the Menominee Indian tribe since Federal supervision was terminated over their property. For many years my family has vacationed near the Menominee Reservation in Wisconsin and I had a first-hand opportunity to recognize the failure of the well-intended 1954 Act which terminated Federal supervision over the Menominee Indians.

I believe that our distinguished colleague, Harold Froehlich, the main sponsor of this bill, is to be commended for taking the lead in this absolutely necessary and practical step. For that reason, I am pleased to be a cosponsor of this legislation. In my judgment, this is a very significant piece of legislation and would clearly benefit the Menominee tribe.

I again urge favorable subcommittee consideration of this bill.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

HON. LLOYD MEEDS,
Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, House Office Building, Washington, D.C.

DEAR LLOYD, I want to indicate my strong support for the Menominee Restoration Act, H.R. 7421.

The time has come for us to admit that termination was a tragic mistake. The Menominee people have suffered immensely under the 1954 Act, which was intended to "free" them from federal control. Their liquid assets have been lost. Their schools and hospitals closed. Valuable ancestral land has been sold in an effort to improve Menominee County's meagre tax base.

Clearly, restoration is the only long-range solution to the Menominees' problems. Under H.R. 7421, the Menominees would again be eligible for services and funding available to other federally recognized Indians. The newly recognized tribe would be able to establish its own tribal government under provisions similar to the Indian Reorganization Act.

Prompt action on this legislation by your Subcommittee will be an important first step on the Menominees long road back to economic self-sufficiency and cultural integrity.

With best wishes.
Sincerely,

DONALD M. FRASER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR LLOYD: I am writing to support and endorse H.R. 7421 and to urge your Subcommittee to report favorably on the bill.

The Menominee Indian Tribe bill is an example of the positive actions the Federal Government can take to improve the position of the American Indian. The bill would once again make the Menominee Indian Tribe a Federally recognized Tribe, would restore to the Menominees the Federal services available to other American Indians, and would put into trust status most of the land formerly part of the Menominee reservation.

I consider it an honor to cosponsor the bill in an effort to both remedy a local wrong and to make it clear nationally that Congress is sensitive to the problem of the American Indian.

Yours sincerely,

MICHAEL J. HARRINGTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

HON. LLOYD MEEDS,
Chairman, Indian Affairs Subcommittee, Interior Committee, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing with regard to H.R. 7421, the Menominee Restoration Act which is scheduled before your Subcommittee for hearings on June 28.

This legislation will not only improve the economic situation for the Menominee people, who now constitute the poorest county in Wisconsin, but it will also reaffirm the responsibility of the Federal government to provide services and assistance to the Chippewas and other tribes nationwide.

The passage of this legislation has become a symbol to Indian tribes because it represents the rejection of termination as a Federal policy. This important legislation is related to many other problems facing Indian tribes and I am pleased to join in support of this legislation.

With warm regards.

Sincerely,

JOHN A. BLATNIK, M.C.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 26, 1973

HON. LLOYD MEEDS,
Chairman,
Subcommittee on Indian Affairs,
House Annex.

DEAR LLOYD: I am writing to express my support for HR 7421. This bill, which I am cosponsoring, would give federal recognition to the Menominee Indian Tribe of Wisconsin.

I am hopeful that the Subcommittee on Indian Affairs will give positive consideration to HR 7421.

Thank you in advance for your time and interest.

Sincerely,

LES ASPIN,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1973.

THE HONORABLE LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your Subcommittee will consider on June 28th an extremely important bill, H.R. 7421—important to the members of the Menominee tribe in Wisconsin and important in the sense of governmental policy towards Indian Tribes in the United States.

Previous to their termination, the Menominee tribe was relatively self-sufficient; since termination, over $19 million dollars in federal and state funds have been spent in Menominee County.

It is generally recognized that the policy of termination should be changed—that self-determination, not termination should be the policy of the American government. H.R. 7421 would make the Menominee Indian Tribe a federally recognized Tribe, would restore to Menominees the federal services available to other American Indians, and would put into trust status most of the land formerly part of the Menominee reservation.

I urge the Subcommittee to remedy the reprehensible action taken by Congress in 1954 by acting favorably on H.R. 7421.

Sincerely yours,

JEROME R. WALDIE, M.C.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 28, 1973.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs,
Longworth House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: As a co-sponsor of H.R. 7421, I am pleased to know that you wil be holding hearings this week. I hope it may be soon possible to repeal Federal supervision over the Menominee Indian Tribe and restore them their full rights.

Sincerely,

BELLA S. ABZUG,
Member of Congress.

Mr. MEEDS. Proceed, sir.

Mr. LUCEY. Thank you, Mr. Chairman.

I have a relatively brief statement here, but even so I think that some of it has been fairly well covered by your opening statement and by the statements of the two Congressmen involved, and I think therefore I will attempt to pretty much summarize the statement that I have prepared.

Mr. MEEDS. Without objection, the entire statement will be placed in the record at this point.

[The prepared statement of Governor Lucey follows:]

STATEMENT OF HON. PATRICK J. LUCEY, GOVERNOR, STATE OF WISCONSIN

Chairman Meeds, Members of the Indian Affairs Subcommittee, Ladies and Gentlemen. I am here today to testify on behalf of HR 7421, the Menominee Restoration Act. As Governor of Wisconsin, it is important for me to address at this time the impact restoration will have on the state, and the state on the success of restoration.

But I am not here this morning in just an official capacity. For many years, I have shared the view of my Menominee friends that termination was a fundamental mistake, that is has benefited neither Wisconsin nor this nation—and that it has actively hurt the people it was meant to help, the Menominee Indians themselves.

The legislative, administrative and legal questions involved in restoration are dwarfed by the existing problems of the Menominee—problems which I believe are, to a large extent, the legacy of termination. One of the justifications for that policy in 1954 was the presumed prosperity of the Menominees. Today, no one would make that same claim. From 1967 to 1973, unemployment in Menominee County ranged from 21% to a projected 39% this month—the highest unemployment in the State of Wisconsin. Per capita income is the lowest in the state, and per capita welfare payments the largest. In 1970, 42% of Menominee County Indians had incomes below the poverty level; this may be contrasted to a statewide figure of 7%.

Termination may not be the only cause of these sorry statistics, but it has surely been a major contributing factor. As a result of termination, the Menominees have been forced to pay tax costs formerly assumed by the federal government. Necessary services, such as health care have been curtailed. Tribal assets, held in the joint stock company of Menominee Enterprises, Incorporated, have been tragically depleted. Menominee land has passed out of tribal hands, and development meant to expand the county's tax base has brought environmental damage.

As the Bureau of Indian Affairs reported last year: "Most people who are knowledgeable about the Menominee situation are of the view that the Menominee Tribe and its related institutions cannot continue to exist under the conditions in which they now find themselves Menominee Enterprises, Incorporated, has already had to dispose of land, its most valuable asset; an asset to which the Menominee people have a firm attachment, in order to meet its ongoing operational requirements and its obligation tax liability to Menominee County."

". . . Financial figures make it apparent that the costs of running Menominee County cannot be met out of the profits of the saw mill, but will be met only by further sales of the land assets of the corporation. This dissipation of the land base reduced (sic) the amount of land that is available for sustained management for forest products, reducing in turn the source of income for the sawmill. This downward spiral forebodes only continuing difficulties for the Menominee people, leading ultimately to financial chaos, or a solution through continuing transfusions of ever-increasing amounts of public money without any real chance of altering the downward spiral. This downward financial spiral has, quite justifiably, lead to a downward spiral of hope on the part of the Menominee Tribe.

"Our study of the situation has lead us to the same conclusion that has been accepted by most Menominee, that is, the return of the Menominee Tribe to the trust relationship with the Federal Government is the only solution to this almost hopeless situation."

Restoration is not a magic wand, that will immediately solve all the problems of the Menominees. But it will *make possible* the solution to those problems. It will relieve the pressure to sell Menominee lands to non-Menominees. It will remove the crippling property tax burden on the financially weak MEI, and return jointly-owned Menominee land to a federal trust. It will bring an infusion of new federal funds for schools, health care, roads, and other important public services. It will assure the Menominees a real choice over their own destiny, rather than the illusory choice provided by an economic situation which offers them few real alternatives.

But the impact of restoration will not be limited to the Menominees. It will also affect non-Menominees who live in Menominee County, the State of Wisconsin, and to some extent at least, adjacent counties.

There has been concern expressed that restoration will have an adverse impact on non-Menominee property taxpayers who live in the County. From everything we have been able to determine, these fears are groundless. In fact, there is a real possibility that property taxes will go down as a result of the federalization of county and town roads, new federal welfare assistance, and federal impact and Johnson-O'Malley funds for pick-up of educational costs. (According to a legal analysis prepared by the Native American Rights Fund, the most the County's property tax base can decrease after restoration is 57%: federal funding should result in an at least 66% reduction in expenditures supported by local taxes.)

From a state perspective, there are a number of important questions concerning the organization of government in Menominee County which must remain unresolved until the process of restoration has begun. All of these questions have been thoroughly examined over the past few years by the Menominee Indian Study Committee. The most important of them is: Should Menominee remain a county in the same form as it is today?

An authority on this issue in Wisconsin government has suggested that H.R. 7421 be amended so as to provide our lawmakers with flexibility in establishing the post-restoration governmental structure for what is now Menominee County. If you do not have a copy of this amendment, I would be happy to supply you with it. I believe it is worthy of serious consideration.

Although many of the details must still be worked out, I do not foresee any major problem posed for the state by restoration. Let me assure you that any difficulties which do come up will receive my prompt and thorough consideration. I am committee to making restoration work—for the Menominees, for the adjacent counties, and for the people of the state of Wisconsin.

I do, however, see a problem for the Menominee Indians. and MEI, if restoration is, in effect, postponed for two years. The reason for this postponement—to give us time to assess the full impact of restoration—seems to me to be contradictory, since we will not be able to assess that full impact until restoration has in fact taken place. In the meantime, MEI may be bankrupted by the continuing tax burden placed on its limited resources. While there may be alternative approaches to this dilemma, I think the simplest course is to remove the two year postponement for the transfer of MEI assets from H.R. 7421, and effect full restoration as soon as possible.

At the time it was first proposed, termination was thought to be the "answer" to the "Indian problem" in this country. Today we know this not to be the case. Termination, like so many of the policies which preceded it, has proved to be—at least in the case of the Menominees—a bankrupt approach. I urge you to act promptly to reverse this legacy of empty promises and policies, and assure the Menominee Indians of Wisconsin of the support and dignity which they deserve.

In any case, because federal legislation supersedes even the powers of constitutional law on the state level, all references to "Menominee County" should be deleted from 93rd H.R. 7421, and a new SECTION 6 (f) ought to be inserted to give state and local government services the broadest possible flexibility:

In sections 6 (c) and (d) delete the words "Menominee County", and in SECTION 8 delete [this is a minimum; see the comments above relating to the Menominee school district] the words "the boundaries of Menominee County", and substitute therefore:

> ". . . "the territory constituting, on the effective date of this act, the County of Menominee".

In addition, create a new SECTION 6 (f) to read:

> Section 6 (f) "For the purpose of implementing subsection, the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the State or local government services required by the Menominee Indian tribe."

STATEMENT OF HON. PATRICK J. LUCEY, GOVERNOR OF THE STATE OF WISCONSIN

Governor LUCEY. I am here today to testify on behalf of H.R. 7421, the Menominee Restoration Act. I think as Governor it is important for me to address at this time the impact that restoration will have on the State, and the State on the success of restoration.

I think that it is pretty obvious to everyone who has really studied the matter that the decisions of the 1950's were wrong. We have had 10 years or more of experience with the termination, and I think there is pretty general agreement by the citizens of Menominee

County, by other Wisconsin citizens who are familiar with the problem, that termination of reservation status was not the answer, and we have in Menominee County a pocket of poverty with as high as 39 percent unemployment projected for this month, with more than 42 percent of the citizens of the county living below poverty levels as contrasted to only 7 percent of the State at large.

I think that the termination is not the only, sole contributing factor for these sorry statistics, but it certainly is a contributing factor. I am sure you have all read the statement or the report from the Bureau of Indian Affairs which I have here this morning, but as you are familiar with this study, there is no need for me to do so.

I do not think that restoration is necessarily a magic wand. I do not think that once we restore and try for restoration status that all of these economic problems will necessarily disappear, and I suppose that I am trying to undo the wrong that we done. It is a little like trying to unscramble eggs, and there will be some temporary problems involving the property rights of non-Menominees living within the boundaries of the present Menominee County.

I think that there will be some questions as to what is best for the school children of the tribe in terms of their continuing in the Shawano district or having a separate district. I can only say on that, I do not think they are getting the kind of education they deserve at the present time, and I would hope that with restoration that we will be able to work out a more satisfactory alternative.

Certainly the question of excessive taxes being imposed on those who would continue to own private property in the County, the threat of that is certainly lessened considerably by the increased aid that the Menominees would be receiving from the Federal Government in various social services, not the least in importance, of course, would be the aids under the Johnson-O'Malley Act, and the Federal impacted school aid funds that would be forthcoming once the Menominee property was returned to Federal trust.

And with that thought in mind, I fail to see how the needs of the county would be such that there would be need for a tax level anywhere close to the statutory ceiling since even now, with all the distress that exists there, and with counties picking up a substantial portion of welfare as they do in Wisconsin, there has not been a need to put the tax level at the ceiling. Even in the case of the county it is only 10 mils where there is a ceiling of 15 mils. As far as the township ceiling, that structure has barely been touched with half a mil.

I suppose that once this bill becomes law that there would be many continuing problems among the Menominees in that section of the State, and I guess the main purpose of my being here is to say that I place the welfare for the Menominees very high on the priority list of the State government, that I want to assure the members of this committee and the Congress that I will work diligently to smooth out any of the problems that do arise.

I would hope that the bill would give us flexibility in terms of the structure of government to the extent the Congress has power to do that. I would hope that the final bill would not provide for the 2-year delay. I think that that might be a critical flaw in the legislation that would seriously hinder, but Congressman Froehlich did express willingness to remove that section.

We are presently in the Wisconsin State Senate dealing with a bill to appropriate $250,000 a year to preserve the Wolf River in its wild state, and this is in effect the lease payment, and rental, and at the present time the legislature is trying to decide whether to continue that. The form the bill takes in the lower House is one that would only continue it for 1 year. I think that since that payment covers roughly one-third of the property tax paid by Menominee Enterprises, that it would create a very serious fiscal gap if we had a 2-year position in the Federal law, and in fact, the bill that came to my desk only allowed payments on the Wolf River for only 1 year.

So with that, I think it pretty well sums up what I had in mind saying here this morning, and I will be happy to answer any questions that you might have to the best of my ability.

Mr. MEEDS. Thank you very much, Mr. Lucey.

The chairman of the Full Committee has arrived.

Mr. HALEY. Thank you very much, Mr. Chairman.

I am sorry that I am late. It is difficult to attend two committees at the same time. I want to thank the chairman of the subcommittee for yielding to me so that I might ask you just a few questions.

Governor, as you may know or may not know, I opposed termination of the Menominee Tribe just like I did termination of the Klamath Tribe. Both of them have turned out to be a rather sad state of affairs, and I am sure that is true in your part of the Nation.

Is that right?

Governor LUCEY. That certainly is true, Mr. Chairman.

Mr. HALEY. At the time of the termination of the Menominee Tribe, I perceived this situation that there might be in the legislation itself, and even a little later we put in some Federal funds. As a matter of fact, I believe after the termination had taken effect, we passed legislation to give the Menominee Tribe approximately $0.5 million to try to keep open the hospital and the other facilities.

Now, Governor, let me ask you this.

What is going to happen insofar as the State is concerned?

Are you going to attempt to abolish the county of Menominee?

Governor LUCEY. That question I know came up while Mr. Froehlich was answering questions here, and he indicated that with the good will of the Governor that that could be achieved.

The fact of the matter is that the constitution would require a vote of the people involved before we could dissolve a county. Now, Dr. Theobold will testify if the present statutes are changed, that we would not be bound to that constitutional provision. I am not a lawyer and I do not know whether that is a fact or not, but the language of the constitution under which we presently operate says no county with an area of 900 square miles or less shall be divided or any part stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

Mr. HALEY. So it would only take, under your constitution, it would only take the vote of the people in Menominee County and you would not be called for a vote statewide, would you?

Governor **Lucey**. That is right.

Mr. **Haley**. Well, of course, your State legislature and your Senate could not do this other than through the State constitution.

Is that right?

Governor **Lucey**. That is correct.

Mr. **Haley**. Now, Governor, of course the thing that has worried me is that you have a county in your State, you undoubtedly have constitutional officers who have been elected like county commissioners, school boards, and so forth.

What is going to happen to that situation?

Can you just discontinue the office, or what is going to happen?

Governor **Lucey**. I think that without eliminating the county government by eliminating the county, that you would continue with these offices, continue to elect as in the past. Somehow in setting up the county they did depart from the pattern that exists in other Wisconsin counties. Initially by constitution we had eight elective positions in county government. When Menominee County was created, an arrangement was made—I forget just how it was done—whereby the sheriff and district attorney of Shawano County would provide services to Menominee and I guess for awhile there was a controversy because the people of Menominee County did not even have an opportunity to vote for these offices, but that has been corrected, and even now they did not have a full group of elected officials. Those two offices provides services, for the county but are actually elected for a larger jurisdiction.

Now, whether it would be necessary to continue having such people like county clerk, registrar of deeds and so forth, under the termination, I am not sure. I suppose conceivably you could keep a county in being without providing all of the administrative costs normally associated with county government.

Mr. **Haley**. Your State doesn't provide as my State does, that the county must have a Board of County Commissioners and so forth——

Governor **Lucey**. We do have a uniformity clause with regard to county government. We have made a few amendments of it in recent years, but in setting up Menominee County, they did not have the full complement of county officers. Just how it was accomplished I am not sure.

Mr. **Haley**. Well, of course, Governor, that is one thing that is worrying me, if we go back here now and more or less split up the county in making a reservation. That is the general idea here, is it not?

An Indian reservation?

Governor **Lucey**. Yes, that is correct.

Mr. **Haley**. Would that put a loan on—would it be unable to be carried by the people who own private lands within the county?

Governor **Lucey**. Well, I think that would be something that would have to be determined by the people of the county. Now, if Dr. Theobold is correct, and if by putting language in the Federal bill where we would be exempted from the constitutional requirement of a referendum vote—I am not sure if that is the case—then the legislature could act on the matter without a referendum.

I think there would be some question of the viability of the county with so small a tax base. I might say we do have some existing counties that do not meet t' e test of viability and they do continue to function as counties.

Mr. HALEY. Governor, I hope we can resolve this thing some way, somehow. I stated at the beginning of my questions here. I would oppose termination, but there was not much I could do about it at the time.

If we take the present bill and pass it, the reservation would require probably some additional financial assistance to try to straighten out your affairs out there, would they not?

Governor LUCEY. I would think so. As I understand it, there would be an immediate influx of Federal dollars for school aid and other social services that the Menominees are not presently entitled to because they are not--they do not meet the Federal definition of Indians.

You were talking about something in the way of sort of temporary stop-gap money for the transitional period?

Mr. HALEY. That is right.

Governor LUCEY. Well, any help along those lines would certainly be welcome. I do not know whether the bill provides for appropriation or not.

Mr. HALEY. Well, maybe we should provide something to get them over this rough spot in the trail, so to speak, because undoubtedly they have obligations.

Governor LUCEY. Yes: I think that would certainly merit consideration by the Congress.

Mr. HALEY. Mr. Chairman, I think that is all, and again, Governor, I want to apologize for not being here. Being chairman of the full committee takes a lot of time, I found out, and I cannot make all of these hearings. I had two this morning, so you cannot be in two places at one time. Thank you very much, and Mr. Chairman, thank you for recognizing me so I may go back to my other cities.

Mr. MEEDS. Thank you very much, Mr. Chairman, for coming. We appreciate it.

Governor Lucey, as I understand it, your testimony indicates that instead of taxes being higher for the remaining taxpaying citizens of Menominee County after restoration, it might indeed be lower, with the infusion of Federal dollars for education, health and roads, and things like this.

Governor LUCEY. I would think it would.

Mr. MEEDS. Governor, you have pointed out something I had forgotten. Johnson-O'Malley funds are not presently available because the Menominee is not a reservation. In the interpretation of the BIA, the children must be on or near a reservation, so Johnson-O'Malley funds are not now available, and they would be available if this were made a reservation.

Governor LUCEY. That is my understanding.

Mr. MEEDS. Do you see any problems in the State constitution with the concept of a reservation and a county which have coterminous borders?

Governor LUCEY. I see no constitutional problem with it, no.

Mr. Meeds. I wish the chairman of the full committee had stayed, but it is my understanding—you can correct me if I am wrong—that every one of the elected county officials today in Menominee County are Menominee Indians, with the exception of the superintendent of schools, who is from Joint School District No. 8, and the judge of the court.

Governor Lucey. Who is from Shawano County.

Mr. Meeds. Right.

Governor Lucey. Yes; I think that is true.

Mr. Meeds. So they are in effect carrying on a county government right now; are they not?

Governor Lucey. That is correct.

Mr. Meeds. So the prospect of this being a county and a reservation all at the same time certainly does not frighten me.

Does it frighten you?

Governor Lucey. No; I guess not.

Mr. Meeds. Very well.

The gentleman from New Mexico.

Mr. Lujan. Thank you, Mr. Chairman.

Now, that is very feasible that it be a county and a reservation. As a matter of fact, in the area where I come from we have a reservation scattered over more than one State, so there is really no problem as far as counties are concerned, but Governor, I would like to pursue further the matter which I discussed with Congressman Froehlich, and that is on the question of the private lands because that poses a real problem to me.

While you say that the taxes could conceivably be lower because of the infusion of Federal funds into the county, that is very true, but if someone were determined to make it difficult for someone, whether he be Indian or non-Indian, it does not make any difference, would be determined to make it difficult for anyone to have any private land in there, it is possible and even probable if they are determined to drive somebody out, to increase the taxes to an intolerable rate.

Is that not correct?

Governor Lucey. They could not increase the taxes beyond the statutory ceilings, which would be 1.5 percent for the county. Now, conceivably, I suppose, if you apply both the county ceiling and the coterminous township ceiling, then you would be up to 3 percent. There certainly would be no need for that level of funding.

Mr. Lujan. We are not talking about need, now. There are several newspaper articles where the present management of the Menominee organization is being challenged. Those that challenge them say you do not know what we are doing. What we really ought to do is get all the private landowners out. One method by which you do it would be taxation.

You are going to have the same problem if you do not renew the lease on the Wolf River, as I understand it, and we would launch a patrol of the river so no one else used it.

So I see a real problem in that taxation and other tactics could be used to drive out those that have in good faith purchased that land.

Now, you say that a referendum needs to be held in order to take out part of this land and put it into another county, in order to protect all those private landowners.

What is the objection to that?

It does not seem like it would take an awful lot of time?

Governor Lucey. The referendum?

Mr. Lujan. Yes.

Governor Lucey. I do not think that anyone has any objection to following the State constitution on the question of whether or not the county ought to be kept intact or whether it ought to be separated.

Mr. Lujan. That would really in essence also be the test of what many have suggested that you have a referendum as to whether the people would like to have termination, would it not, because if you voted to cut these properties out, put them out——

Governor Lucey. I think the only question there is that someone is arguing on the matter of restoration, that both Menominees and non-Menominees should be privileged to vote. I can see where non-Menominees would certainly vote on the question of county, but I do not think it appropriate for non-Menominees to be involved in a referendum or whether or not the termination ought to be reversed.

Mr. Lujan. They should be allowed to vote in the question of whether that portion of the county should go to another county.

Governor Lucey. Yes; I agree.

Mr. Lujan. Does the State of Wisconsin have any plans to conduct such an election as to whether the people involved would like to be a part of another county or not?

The reason I bring this up because very frankly this is one of the real barriers to the passage of this legislation, and I can see no reason why the State of Wisconsin could not go ahead and do it even now. Then you would not be talking about the 2-year delay.

Governor Lucey. There is a bill in the legislature to do that. I do not know just offhand what the status of that bill is, whether it is out of the committee or whether it has been passed by one House, or just where it stands, but on the basis of what Mr. Froehlich said this morning, I assumed that the authors of the bill are willing to waive the 2-year requirement.

Mr. Lujan. Without settling the question of what happens to those private lands?

Governor Lucey. If I understood Congressman Froehlich's testimony correctly, he was saying that he would base his judgment on the opinion that is agreeable, on that basis that he felt that if the Theobold amendment appeared in the bill, it would provide sufficient flexibility and the 2-year moratorium would no longer be required. I think there are serious problems that were derived from the problems of the past 2 years postponement. No. 1 is the fact of the bonds becoming negotiable.

Another problem would be the matter that I am just not sure that MEI could endure a few more years with the burden of three-quarters of a million dollars in annual property tax.

Mr. Lujan. Does the State of Wisconsin have the power to hold up the maturity of these bonds as has been suggested?

Governor LUCEY. There is a bill in again to do that. But I do not know what the status of that bill is or whether in fact we do have the legal power. I think there is some question about whether or not we can fix that.

Mr. LUJAN. Also by change of charter and mission of Menominee Enterprises, the charter could be changed to, change its mission to a social-oriented mission rather than a stockholders oriented mission and remove the taxation while we are waiting for all of these things to happen?

Could that be accomplished?

It seems to be some interim things that need to be done before the restoration can take place without jeopardizing anyone else's rights to the property. So I think if we just pass it as it is—and I do not like the 2-year limitation either because, but only because of the fact that it denies Federal funds going into the reservation which are badly needed.

But we have not adequately taken care of the problems or they would not come up again?

Governor LUCEY. I think a number of those would be addressed by some of the other witnesses here who have made a very exhaustive study of the whole question.

I would hope that some of our objections would be answered in the process, at today's hearing.

Mr. MEEDS. Just one quick question, Governor.

There would not be any way, even by referendum, to include even substantial parts of the non-Indian-held lands of the county in Shawano or Oconto County without also including substantial parts of Indian land?

Governor LUCEY. I think that is correct.

Mr. MEEDS. So I think it is almost ridiculous to assume that the residents of Menominee County are going to vote by referendum to give their land to some other county.

Governor LUCEY. Yes; that is right. There is no area contiguous to either county that is entirely all owned by non-Menominees.

Mr. LUJAN. If the gentleman would yield, I suppose the only objection I would have is use of the words of substantial part of the reservation. It is not a substantial part of the reservation that would go into the next county. I have made a little map here which shows right over here in the southeast portion of the reservation that could be moved over, and there is really no objection to the reservation being in two different counties. As I said before, we have examples of a reservation being in two different States.

Governor LUCEY. Well, the chairman of the county board is here along with a number of other leaders from the Menominee Tribe, and I would like for him to respond to that.

Mr. MEEDS. Governor Lucey, we really appreciate your testimony. I think it is clear why you have been lauded as an outstanding Governor from your State, and I think your testimony has been excellent.

Thank you very much.

Governor LUCEY. Thank you very much.

Mr. MEEDS. Our next witnesses are from Interior and HEW. We have the Honorable Marvin Franklin, Assistant to the Secretary for Indian Affairs, Department of the Interior, and the Honorable John

Ottina, who is the Commissioner of Education designate, Department of HEW, Office of Education.

Gentlemen, we are delighted for you to come forward. Welcome to the committee.

Mr. FRANKLIN. Thank you. I would like to mention I have accompanying me this morning Mr. Soller from the Solicitor's Office, and Mr. Edwards and Mr. Bruce, who will assist in the testimony.

I have a brief statement I would like to read.

Mr. MEEDS. Please proceed, sir.

STATEMENT OF HON. MARVIN FRANKLIN, ASSISTANT TO THE SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY MR. SOLLER, SOLICITOR'S OFFICE, MR. EDWARDS AND MR. BRUCE

Mr. FRANKLIN. Mr. Chairman and members of the committee, I am pleased to be here this morning to express the Department of the Interior's strong support for H.R. 7421, if it is amended as suggested in our report.

The bill extends Federal recognition to the Menominee Indian Tribe of Wisconsin, repeals the act of June 17, 1954, whereby Federal services to the Menominee Tribe were terminated, and reinstates all the rights and privileges of the tribe and its members which may have been lost or diminished as a result of the passage of the termination act.

The bill also provides the framework for the adoption of new governing documents and for the election of officers of the tribe. It authorizes the tendering of the assets of Menominee Enterprises, Inc., to the Secretary of the Interior to be held in trust for the benefit of the Menominee Tribe forming their reservation. This acceptance will not occur until 2 years after the enactment of the bill.

As this committee is only too well aware, the act of June 17, 1954, terminated the trust relationship between the Federal Government and the Menominee Tribe. The Menominee Termination Act was the first legislative action resulting from House Concurrent Resolution 108 which passed the Congress on August 1, 1953, and which had as its objective the phasing out of Federal supervision and control over Indians.

There are few, if any, who will argue that termination was not a disaster for the Menominee people. At the time of their termination, they were recognized as one of the most advanced and prosperous tribes. They used revenues from the lumber industry to make substantial contributions to reservation programs. They had substantial funds on deposit and they managed their assets for the continuing benefit of the tribe and its members. This was the picture at the time of termination. Today we find the Menominee people concerned that they will lost their most valuable assets, their land, if they continue on their present path.

Menominee Enterprises, Inc., the corporation formed by the Menominee people at the time of termination to hold the assets they owned, has disposed of approximately 14,000 acres of the tribe's land base. Part of this land was sold to individual Menominees for home sites. The land sales have been necessary for Menominee Enterprises, Inc., to be able to show a net earning position in three out of the last 4 years. These facts indicate that land sales as a source of revenue were going to have to continue if the corporation were to remain solvent, thus endangering the land base.

Further, a financial analysis prepared in April 1971 by a private consulting firm using computerized projections of the corporation's earnings and profits indicate serious difficulties for the corporation after 1975 if the mill were not updated and if the economic base of the corporation were not broadened.

These bleak facts forced the conclusion that the answer to the grim economic situation was the restoration of the Federal trust relationship, a conclusion with which we concur. The restoration of recognition provides immediately the full range of assistance that is available to federally recognized tribes. This solution is entirely consistent with the position taken by President Nixon in his Indian message to the Congress on July 8, 1970, in that it will rectify a forced termination situation which he recognized as being wrong. This plan of action seems to have the support of most of the Menominee people; so it also carries out the President's aim of self-determination for Indian people.

We recommend that the Menominee people be restored to the Federal trust relationship under the conditions they accepted in a general council meeting on October 17, 1934, that is, the terms of the Indian Reorganization Act. That act sets out the essential relationship between the Secretary of the Interior, as trustee, and the tribes that have accepted its provisions. Those provisions, which were once applicable to the Menominees, would once again become applicable.

The Menominee Tribe would be restored to the Federal trust relationship as of the date of enactment of this bill and would then be eligible for all services extended to recognized Indians because of their status as Indians. The process of creating a formal government could begin.

Another amendment that we think is significant and should be brought to your attention is the amendment that would end the services extended to the Menominee people under the provisions of this bill if for some reason the land base of the tribe is not transferred to the Secretary to be held in trust for the benefit of the Menominee people. We believe that this provision is appropriate in that one of the bases for Federal recognition is a land base and if the Menominee people decide for some reason that they do not wish to create a reservation from their assets, then the recognition should end.

We urge your prompt action on this bill so that these people can again rejoin the Indian community in a trust relationship with the Federal Government.

This concludes my statement. My staff and I are prepared to answer any questions you might have.

Mr. MEEDS. Thank you very much, Mr. Franklin.

Let's hear from Dr. Ottina first and then we will ask questions later on.

Dr. OTTINA. Thank you very much, Mr. Chairman.

I do not have a formal statement, Mr. Chairman.

STATEMENT OF HON. DR. JOHN OTTINA, COMMISSIONER OF EDUCATION DESIGNATE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. Ottina. I have only one thought that I would like to add to the statement that the Assistant Secretary Franklin made, and that relates to a particular section of the act which I am sure that you will question me on anyway, so if I may just provide the answer now.

That is relative to the section 8, which is, as I understand, the intent of which is to declare that the Menominee Tribe, if they proceed along the lines outlined in the bill and do become recognized, that their children who live on this reservation would be recognized as impacted aid children, and therefore would be eligible for the benefits thereof, and in that connection we have attempted to contact the State Department of Education in Wisconsin and have some very crude estimates at this time as to the amounts of dollars that they would be entitled to under such a provision.

Our estimates do not correspond exactly with yours, Mr. Meeds, perhaps because we made a slightly different set of assumptions. We attempted to ascertain how many children would be residing on Federal property. Our estimate was not as high as yours, and we were at about 790 that we thought would be eligible age students.

Under this basis, and under the basis of estimating the average cost for the subsequent school year, increasing over this year by approximately 10 percent, which is the projection which I believe the Wisconsin State Department would concur in, we would estimate the full funding of aid children which is in the proposal of the budget would entitle this group to receive $516,991, which is not materially different from your estimate.

Mr. Meeds. Thank you for your information, Dr. Ottina.

Did you have other observations?

Dr. Ottina. No, other than we too at HEW support this bill and would welcome it.

I have with me Dr. Emery Johnson who is in HEW head of the Indian medical portion. Dr. Johnson is sitting there. We, too, would be pleased to answer any questions.

Mr. Meeds. Maybe I can start then by questioning you, Dr. Ottina, and Dr. Johnson.

What other HEW programs would become available in the event that this bill were to be passed and the lands returned to reservation status?

Dr. Ottina. In terms of specific programs which they are not now eligible for, the impacted aid is the only one. There are other programs which [illegible] Indians which they are already eligible for. For example, in the Indian Education Act, they would be recognized as eligible for al[illegible], so this would be the additional increment.

Mr. Meeds. [illegible] are not now eligible for Indian programs, are they?

Dr. Ottina. No. I was going to ask Dr. Johnson to add to that.

Dr. Johnson. Well, first, the restoration, if we interpret section 2 of the bill as returning to the Menominee Tribe all of the rights and privileges that they had prior to termination which would bring them forward to this period of time with the same rights and privileges of all other federally recognized Indian tribes, if that is our interpretation of section 2, that would permit the Menominees to participate fully in the programs for the Indian Health Services.

This would entitle them to participate in the comprehensive health services, both curative and preventive and various field activities. It would also permit them to participate fully in the Indian sanitation facilities and construction program which as you know is a program which provides for water, sewage, waste disposal program for Indian communities and Indian homes.

Mr. MEEDS. Any other programs that you can think of, Dr. Johnson, simply because of return to reservation status?

Dr. JOHNSON. These would be the only specific ones directed to coordinating these facilities.

Mr. MEEDS. Do we have any average figures on what is spent on Indian health for a member of a reservation?

Dr. JOHNSON. Well, our projection for the cost of providing health services as such for the Menominee, reconstruct the Menominee reservation would be about $1.3 million.

Mr. MEEDS. $1.3 million annually?

Dr. JOHNSON. That would be an annual figure, and in addition our current projection for a sanitation facility—this would be a one time expenditure—would be approximately $1.8 million.

Mr. MEEDS. Now, both of these programs are not now capable of achievement, is that right?

Dr. JOHNSON. That's right.

Mr. MEEDS. Mr. Franklin, your report indicates that the annual estimated BIA costs of Menominee restoration would be approximately $1.396 million.

Is that correct?

Mr. FRANKLIN. That is correct.

Mr. MEEDS. That would include education, road maintenance, welfare and guidance services, employment assistance, forestry, management of trust property, credit and financing, adult education, housing assistance, agricultural assistance, and supporting services.

Mr. FRANKLIN. That is correct.

Mr. MEEDS. Now, does the education figure reflect the funds that would become available because of the Johnson-O'Malley program?

Mr. FRANKLIN. The figure shown on that listing, sir, is $420,000, of which $400,000 would be from the Johnson-O'Malley and $20,000 allocated out of higher education scholarship funds.

Mr. MEEDS. It is my understanding that you oppose the 2-year delay.

Mr. FRANKLIN. We don't oppose it as such. We recognize that there would be——

Mr. MEEDS. You would agree there would be a substantial problem, would there not?

Mr. FRANKLIN. Yes, there would be some substantial problems.

Mr. MEEDS. As a matter of fact, the 1973 BIA report indicated that unless there was a massive infusion of funds or restoration, MEI was bound to go under.

Mr. Franklin. Well, one of the things that we understood in the 2-year delay was that there would be an immediate resumption of services; the delay would only relate to the assumption of the tribal assets and the restoration of Federal trust responsibility for them.

Mr. Meeds. Would it not be necessary for them to pay taxes on the land if there were a 2-year delay?

Mr. Franklin. It would be my understanding until the land went into trust, it would be subject to taxation.

Mr. Meeds. And that is the major burden which has placed them in the position they now find themselves, is it not?

Mr. Franklin. That's true.

Mr. Meeds. So, in all probabiilty, the 2-year delay would be unfavorable to what we're all trying to do here.

Mr. Franklin. I think that is correct.

Dr. Ottina. Mr. Meeds, if I may add, I think it should be recognized in order to be eligible for the benefits that I have described and Mr. Johnson has described; that some act must occur. It is that act that registers the beneficiaries of these provisions.

Mr. Meeds. Indeed. What difference, Mr. Franklin, would it make whether the Menominees or the Secretary had the responsibility for preparing their roll? Any difference, any substantial difference?

Mr. Franklin. For preparing the roll?

Mr. Meeds. Yes. Under the bill, the Menominees have the responsibility for preparing the roll. As I recall, the departmental report commented on this. You felt that the Department had a responsibility.

Mr. Franklin. I would like to have Mr. Bruce address that.

Mr. Meeds. Please go ahead, Mr. Bruce.

Mr. Bruce. The Department did recommend a slight change in that, Mr. Chairman. We do recommend that the Secretary have the overall responsibility for preparing the roll. This would be in keeping with the 1934 procedure.

This would also insure that any kind of problems that existed within the community, as to personalities or divisions, would not enter into the preparation of the final roll. We do retain the provision of the bill that would allow the Secretary to contract with the Menominee group to prepare the role, if that is what he determines to be the best policy. He has under the law responsibility for certifying that roll.

So it is imperative in our judgment that since he has that requirement to certify, that he be absolutely certain that the preparation of that roll is carried out under his general supervision.

Mr. Meeds. Mr. Franklin, with your permission, I would like to have Mr. Bruce continue.

Mr. Franklin. Very good.

Mr. Meeds. I think probably he has explained part of it already. As I understand the bill, it provides a limited trust in which much of the responsibility is retained by the Menominees, and yet the BIA still has responsibilities.

And as I understand your report, you are recommending a full trust, a return to IRA of 1934. Tell me, what are the major differences here, Mr. Bruce?

Mr. BRUCE. Our initial study of the bill, Mr. Chairman, led us to believe what the Menominee people were asking for in the bill was a limited trust relationship in which basically the secretary took the land in trust, and it became a tax shield from the State of Wisconsin, and local governments. And even though the Secretary held the land in trust, it became a passive trust, and he had none of the obligations of a trustee; he could not protect the land from encroachment or from liens being placed on it or anything else.

So in effect the Menominee Tribe could alienate the land through mishandling of it, and he would have no control over that situation. The 1934 act would give him the full powers of the trustee to protect the trust assets from alienation, so that he could carry out his responsibility, which is, if the trust ever ended again, to pass the assets unencumbered to the then living beneficiaries.

Mr. MEEDS. Isn't that inconsistent with the current policy, including the policy of the President, to really give the Indians themselves responsibility and full management of their assets and their lives?

Mr. FRANKLIN. Mr. Chairman, I think not. We have many examples now where the tribes have proposed plans of operation that are approved by the Secretary; the tribes have great latitude in the use of their resources. And being consistent with the other reservations in the country, and recognizing the need for uniformity in the trust responsibilities, we believe that there are other means for tribes to exercise self-determination.

Mr. MEEDS. It is your feeling that if some of the proposed legislation such as contract authority, economic development, and things like that were passed, this would provide even further autonomy of the Indian tribes, including the Menominee, if it were restored?

Mr. FRANKLIN. Yes, I do, under the assumption of control bills and bills of that nature.

Mr. MEEDS. I notice that you recommend in your report meeting the hunting and fishing question. Would you enlarge on that a little bit?

Mr. FRANKLIN. Yes.

Mr. BRUCE. Mr. Chairman, we recommend deletion of that provision for a couple of reasons. We believe that the Federal Government in this situation should not dictate to the State of Wisconsin who has responsibility for stocking those lakes. That is the responsibility of the State of Wisconsin. That should be determined in conjunction with the Menominee people.

Second, there is a Supreme Court case on the hunting and fishing rights on the Menominee people in the State of Wisconsin. And we believe the law is rather well settled on this point, in that the control of hunting and fishing should be again a situation that is worked out between the Menominee people and the State of Wisconsin.

Of course, if the Congress wishes otherwise, that would be their decision.

Mr. MEEDS. Counsel reminds me that the departmental report asked for extension of time for certain secretarial action. Would you agree that there may be some necessity to impose fixed limits on these extensions and to allow the Menominees an extension of time?

Mr. Bruce. Of course, the Congress could impose any kind of limitations it wishes to.

Mr. Meeds. I understand that, but I'm asking what you would consider as appropriate.

Mr. Bruce. We did conform, Mr. Chairman, to certain time limits. The limits that we recommended with reference to the bill, are the time limits that we generally followed in enrollment procedures. We did delete the provision about having to answer all appeals within a 60-day period.

But generally when we issue—well, always when we issue enrollment regulations, we set down a period of time in which appeals must be made, and we simply have a severe manpower——

Mr. Meeds. Those are regulations, are they not, Mr. Bruce?

Mr. Bruce. Yes.

Mr. Meeds. Those are subject to change?

Mr. Bruce. Yes, they could be changed.

Mr. Meeds. Well, would you have objection if we were to write those into this law?

Mr. Bruce. If that would be what the Congress would wish, Mr. Chairman. But one of the things that we face are some manpower situations, in both our soliciter's office and in our enrollment office. And that is one of the reasons that we were concerned about the time limit. We would move as rapidly as possible to finish this role, because we would need to do so to be able to identify with certainty who the tribal members were who are to participate in that government.

Mr. Meeds. Thank you. I think I've taken too much time.

The gentleman from New Mexico.

Mr. Lujan. Thank you very much, Mr. Chairman.

The third to the last paragraph, you say that,

> We believe that this provision is appropriate in that one of the bases for federal recognition is a land base, and if the Menominee people decide for some reasons that they do not wish to create a reservation from their assets, then the recognition would end.

I gather from that is that the Bureau of Indian Affairs would then be in a position of management of Menominee Enterprises Corp.?

Mr. Franklin. I think that the reason for that position is that there is a 2-year period after the time the bill passes before the assets are returned to the Secretary. For this reason there would be no trust relationship because of the lack of land base so that we would have no authority to continue the services that have been assumed because of the passage of the bill.

Mr. Lujan. What does that mean? How could there be a lack of land base, that the Menominees have all this land?

Mr. Franklin. I think the provision in this statement said that for some reason there was not a turning of the land base into the trust for the Secretary, then the other services would cease.

Mr. Lujan. How does this relate then to the operation of the corporation?

One of the things I would like to see come out of this is that the corporation be continued pretty much in the same business management way that it is now. Of course, I would like to see group profits and that sort of thing, but without the direct running of the business of the Bureau of Indian Affairs.

If you are trustees of the land then, let us assume that the corporation is doing the logging and cutting up all of the lumber and so forth as they are now doing, would they then have to go to the Bureau of Indian Affairs, and have the Bureau of Indian Affairs set the quotas as to how much timbering they could do?

Would the Bureau of Indian Affairs be directly involved in the operation of the business?

Mr. FRANKLIN. No; I think not. And I can say by example that in the past 10 years, there have been many different forms of operating with Indian tribes, developing the Navajo Forest Project Industries for example, where there is a plan of operation entered into between the tribe and the Secretary, in which they assume the responsibility of developing their assets.

Mr. LUJAN. So, therefore, what you are telling me, it's the intention to allow them to operate this business—well, completely in the same fashion as it is now being operated even to the point that if they start making some errors, the Bureau of Indian Affairs can't go in and say well, you're doing this wrong. So therefore, we're not going to allow you to cut any more than so many million board feet.

That would be out of the jurisdiction of the Bureau of Indian Affairs?

Mr. FRANKLIN. I think the Secretary has the responsibility under his trust obligation to be sure that there is no wasting away of the trust itself, and he would have that responsibility to the trust beneficiaries. If there was no waste being involved, and the business were run to the best judgment of its directors, then it would be entirely up to the authorized body to operate that business.

Mr. LUJAN. Now, supposing that you felt that there was—that the operation of the sawmill was not very efficient, could then the Bureau of Indian Affairs step in and say we're going to put someone there to be sure that they run it?

Mr. FRANKLIN. They have not done it in other instances. The only time that that would occur in my opinion would be if there were an unreasonable utilization of the trust itself, which would waste away the assets of the beneficiary.

Mr. LUJAN. But generally you would say let them operate it.

Mr. FRANKLIN. That is correct, and that is the experience that we have seen in other operations in the lumber industry.

Mr. LUJAN. Thank you, Mr. Chairman.

Mr. MEEDS. Thank you very much, gentlemen, both of you, for your fine testimony. We may be calling on you from time to time for information with regard to benefits or costs. And we hope that you will be able to respond to the committee relatively rapidly, so we can mark the bill up with more preciseness on education problems and maybe some of the other problems mentioned in the Interior report.

Thank you both very much.

Dr. ORTIZ. Thank you very much.

Mr. MEEDS. The committee will stand in recess until 1:30.

[Whereupon, at 12:02 p.m. the committee recessed until 1:30 p.m. the same day.]

AFTERNOON SESSION

Mr. MEEDS. [presiding]. The Subcommittee on Indian Affairs of the Full Committee of House Interior and Insular Affairs will be in session to hear testimony on the Menominee restoration proposal.

The next witnesses are Ms. Ada Deer, chairperson, Menominee Voting Trust and Mrs. Sylvia Wilber, chairperson, board of directors, Menominee Enterprises, Inc.

Please come forward, ladies. We are glad to welcome both of you to the hearings here in Washington, D.C., and we are looking forward to your testimony.

Please be seated.

STATEMENT OF ADA E. DEER, CHAIRPERSON, MENOMINEE COMMON STOCK AND VOTING TRUST

Ms. DEER. Mr. Chairman and members of the committee, my name is Ada Deer. I am Chairperson of the Menominee Common Stock and Voting Trust.

Today is a very important day in the history of the Menominee Tribe. Unless Congress passes the Menominee Restoration Act, our land and assets will be destroyed. We are deeply grateful to you, Mr. Chairman and Congressman Lujan, for conducting extensive field hearings in Menominee County on May 25 and 26, 1973.

This was the first opportunity that tribal members had to speak directly to one of the committees which decides our future. The subcommittee heard testimony from many Menominees. There have been many arguments for restoration which have been made. In the interest of time, my statement will be brief. I would like to point out one fact from those hearings. More than 30 Menominees spoke. They ranged from traditional religious leaders to the American Indian movement, and they included spokesmen from every major group in the tribe. Everyone supports restoration legislation.

In 1954, Menominees were one of three major tribes marked for termination by Congress. Termination meant the ending of all Federal services to Indians, and denial of tribal membership to children born after that date, and ending the trust relationship with the Federal Government in the administration of our land and assets.

We were selected for termination because of our apparent wealth and business success. Termination has failed. It has brought economic disaster and cultural destruction.

We believe that termination has produced three major long-range effects on the Menominee people, each one a disaster in itself. First, termination has transformed Menominee County into a "pocket of poverty" kept from total ruin only by massive transfusion of special Federal and State aid, welfare payments, and Office of Economic Opportunity spending.

Second, termination has forced our community to sell its assets. Consequently, both tribal and individual assets were lost at an incredible rate.

Third, the mechanics of the termination plan have denied the Menominee people a democracy.

Most other tribes sold their assets and distributed their proceeds. In keeping with our tradition as a tribal community, we Menominees decided to retain our economic base intact. After termination, we found out that our mill had been obsolete for 25 years. We had no money to modernize and expand. As a matter of fact, in order to compete, we had to increase the efficiency by cutting back the employment. Since there were no other jobs, many were forced to leave the county or go on welfare. Our corporation could not produce sufficient tax revenue to sustain a decent level of community services.

The only factor which has prevented us and Menominee Enterprises, Inc., from complete collapse has been the huge stop-gap financial assistance that the Federal and State Governments have given us. Since 1961, almost $20 million in special Federal and State grants and aid has been expended in Menominee County. Since 1965, nearly $1,500,000 in OEO money has also been spent within the county.

These payments are only a temporary solution, having been used only to pay for ongoing community services and to keep our people from starvation. This special funding does absolutely nothing to attack the basic causes of Menominee poverty: our lack of diversified industry, our dearth of economic opportunities, our negligible investment capital, and our inadequate tax base.

From the cultural viewpoint: Regardless of how much money is spent in Menominee County, the essential problem will remain. The Federal Government is asking us to make a success of the termination policy which we have bitterly opposed from the start. We are expected to give up our Indian culture and adopt a way of life none of us want. Such an experiment as this can never work; it will only continue to impoverish our people.

The special Federal funds that have been appropriated are now running out. Without immediate restoration, we may lose control of the corporation next January. The time has come when Congress must decide whether or not our tribe will survive.

Restoration will prevent imminent disaster. It will not bring back our land or services we have already lost. But it will extend Federal protection to the land and assets we still hold. Menominees will once again be recognized as Indians by the Federal Government and become eligible for Federal services. Children born since 1954 will be enrolled in the tribe.

Only one major issue remains in dispute in this bill. We need restoration immediately. The present bill provides for a 2-year delay before our land and assets are put into trust. Our corporation cannot withstand the rapidly growing tax burden.

Because Menominee County is the poorest county in the State of Wisconsin and one of the poorest in the Nation, with the per capita income of our wage earners in 1970 estimated at $1,028, there will be tremendous economic pressure. We will lose control of our land and assets. Congress has irreparably damaged our people and land.

Under the terms of the treaty of 1848 concluded between the United States of America and the Menominee Tribe of Indians, it was "stipulated and solemnly agreed that the peace and friendship now so happily subsisting between the Government and people of the United States and the Menominee Indians shall perpetuate." In return for cession of Menominee lands to the United States, the United States agreed "to give, and do hereby give, to said Indians for a home, to be held as Indians, that tract of country lying upon the Wolf River, in the State of Wisconsin." I think there might be a slight mistake there; it should be "to be held as Indian lands are held."

We ask that such lands as are still owned by the tribe be immediately placed in trust with the United States of America. This may be the last opportunity for Congress to prevent our total destruction.

We need restoration now because Menominee Enterprise, Inc., is faced with crushing financial pressures. The possibility of selling still more land will remain until our land is placed in trust. Thus, the proposed 2-year delay threatens to cause us to lose even more of our precious ancestral land. We urge you to take prompt action for immediate restoration.

Mr. Chairman, that concludes that aspect of my testimony, and I would like to submit two items on the record. We have a booklet, a report, a study done by Dr. Verne Ray, entitled, The Menominee Tribe of Indians, 1940 to 1970.

Mr. MEEDS. Without objection, that will be received for the file.

[The material referred to can be found in the files of the Subcommittee.]

Ms. DEER. And we also have a report entitled, The Menominee Restoration Act, a Legal Analysis, done by Charles Wilkinson, Yvonne Knight, and Joseph F. Preloznik.

Mr. MEEDS. We will accept that for the file, with the understanding that counsel on both sides will look it over and excerpt those things which they feel are pertinent to the hearings to be inserted in the record. Is that acceptable?

Without objection, so ordered.

[The material referred to can be found in the files of the subcommittee.]

Mr. MEEDS. Thank you very much, Ms. Deer.

We are happy to hear from you, Mrs. Wilber.

STATEMENT OF SYLVIA WILBER, CHAIRPERSON, BOARD OF DIRECTORS, MENOMINEE ENTERPRISES, INC.

Mrs. WILBER. I am thankful to Chairman Meeds and Congressman Lujan for the impressive field hearings held last month in Menominee County. This served as an indication to us that the end of our suffering as a terminated tribe may soon be over. We look forward to achieving the goal we set forth 3 years ago, that of restoration.

Termination, like the Allotment Act and relocation policy, was a radical experiment much touted as the final solution to the Indian problem. However, termination was a vague idea and not a plan. Therefore, no one could predict the final results with any degree of accuracy. For the past 12 years, Menominees have been the victims of this hasty congressional decision.

We did try to succeed in our complex county/corporate structure. We wanted to succeed. But the overburdening economic situation we were thrust into foredoomed us from the very beginning.

Menominee Enterprises, Inc., was formed as a tribal entity to act as trustee for our assets. Menominee Enterprises, Inc.'s only source of income is our modest lumber mill. This was severely outdated at termination. The obsolescence of our mill has greatly hampered our profitmaking capability. We were forced to finance the newly created county, which included children's educational services. Our people were forced into an unfamiliar county form of government which had a confusing relationship with the tribal entity, Menominee Enterprises, Inc.

When Menominee Enterprises, Inc. was formed, each Menominee was given a $3,000-face-value, 4-percent income bond. This indebtedness is out of proportion with the assessed value of the corporation. When these bonds become payable in the year 2000, Menominee Enterprises, Inc., will have to come up with over $8 million. This is almost one-half the total value of the corporation at this time, and we have not been able to save any money as yet to meet this obligation.

Because of the financial burdens, Menominee Enterprises was forced to begin to sell our ancestral land. Culturally, our land is not surplus. From 1854 until termination in 1961, we steadfastly and successfully resisted all efforts to reduce our landholding by refusing allotment, which was an experiment which imposed private property ownership on Indians. Holding our assets and our people together was the dominant theme for the Menominees for 100 years.

The cultural values of our people have always been focused on our land as a tribal and not individual holding. The interests of the tribe have taken precedence over individual interests. Thus, selling our land was against every belief and value held by the Menominees people.

Indian people by nature are not competitive. Yet, termination forced competitiveness, and it is destroying our tribal values. Competitiveness is not necessarily bad, but to expect us to no longer function emotionally, culturally, or legally as Indians has had serious adverse effects.

In 3 of the 12 years of operation, Menominee Enterprises has shown a net loss. Our property taxes are increasing, and we must pay interest to our bond holders. We must gross $1 million before we can even begin to show a profit. The scant profit Menominee Enterprises did show in some years is attributable to land sales.

At termination, our projected timber cut was 30 million board feet a year. Our mill can handle 30 million board feet and our operating costs reflect this capability. But by law we are only able to harvest at most 18 million board feet a year. Sustained yield allows us to cut only the number of trees our forest produces a year. Thus the efficiency of our mill is cut in half.

To cut operation costs it is necessary to cut the labor force, adding more people to our already bulging welfare rolls.

In 1974, Menominee Enterprises stocks become negotiable. This poses a threat to Menominee Enterprises as a tribal entity, since much of the stock will most certainly fall into non-Menominee hands. We have already received two extensions on the moratorium on stock sales and have been told that there will be no more extensions.

We have also been cautioned that in order to—if the legislature would by law pass the extension on moratorium, that this would be unconstitutional.

Out of necessity, the poorest Menominees will be forced to divest themselves of their Menominee Enterprises stock. This is identical to what has already happened to their 4-percent income bond. Public assistance eligibility limits the amount of liquid assets one can possess. Consequently, the poorest Menominee will be forced to give up all vestige of his birthright.

As I mentioned earlier, previous management sold tribal land in order to achieve a meager profit. This is the most dangerous threat to our tribe—the dissipation of our land. Selling capital assets to raise cash provides no long-term solution to financial problems.

Restoration is the most practical way to correct the inequities suffered by our people. It is the only salvation for the Menominee people and their corporation. With Menominee lands safely back in trust and the enormous tax burden lifted from our mill, we will once again be able to plan confidently for the future. Our children and their children can be assured of retaining our most important asset—our ancestral land.

With an increase in jobs, we will correct the very severe condition of poverty in our community. At present, our average per capita income is $1,028. Many of our families have incomes below the poverty level. Thirty-five percent of our families receive public assistance. Less than one-fourth of our adults have finished high school. Over 37 percent of our homes are overcrowded; 43 percent lack complete plumbing facilities, and only 36 percent have telephones.

In our present situation, Menominee Enterprises can never be a viable corporation. The inescapable conclusion is that the extremely low socioeconomic indicators confirm our tribe's knowledge that we have been trapped in poverty since termination. The only solution is to have Congress restore us to Federal protection immediately. It would be extremely wrong to compel us to wait for 2 years as the present bill proposes. We do ask that your committee recommend the original bill worked out and supported by our Menominee people.

That concludes my statement, although I have a testimony to submit, a larger testimony with more statistics in it, for the record.

Mr. MEEDS. Without objection, your prepared testimony will be made a part of the record at this point.

[The prepared statement of Mrs. Sylvia Wilber follows:]

STATEMENT OF SYLVIA O. WILBER, CHAIRMAN OF BOARD OF DIRECTORS, MENOMINEE ENTERPRISES, INC.

I would like to express my thanks and the thanks of our Menominee people to Chairman Meeds and Congressman Lujuan for holding impressive field hearings in our community last month. This was an indication to us that possibly after the continual suffering and loss of assets caused by termination we may soon achieve the answer we have worked so hard for the past three years; that of restoration.

Termination like the allotment act and re-location policy was a radical experiment much touted as the final solution to the Indian problem however, termination was a vague idea and not a plan. Therefore, no one could predict the final results with any accuracy.

In 1954, after 100 years of federal protection the government chose to terminate its trustee relationship with our Menominee tribe. Confusion and bewilderment resulted within our tribe when congress adopted the termination policy. Our lack of understanding prevented us from taking any meaningful part in our termination plan.

ORGANIZATION OF MEI

With termination we lost most of our hundred year old treaty rights, protection and services. Menominee Enterprises, Inc. was created to hold and manage all our assets. Complicated trust structures which were incorporated into our termination plan completely denied us a voice in our affairs. The Menominee Common Stock and Voting Trust and the First Wisconsin Assistance Trust was made a part of our terminated life. The seven members, comprising the Voting Trust received all shares of our corporation and became the governing body of our tribe. As enrolled Menominees, we received a certificate of beneficial interest and were allowed to rights. 1) The right to vote for one trustee each year at the annual shareholders meeting. 2) The right to abolish the Voting Trust at ten year intervals. In order to abolish the Voting Trust a negative vote of 50% of all outstanding shares is required.

The most blatant denial of democracy which Menominee have suffered is the imposition of the First Wisconsin Trust. This trust managed and voted the Trust Certificates of minor and illegally judged "incompetent" Menominees. The power of this Trust declined throughout the years as minors became of age, but nonetheless it has wielded an enormous voting power, completely disproportionate to the number of trust certificates it held. The history of voting for trustees at annual meetings of Menominee Enterprises, Inc. reveals that from 1961 to 1968, the First Wisconsin Trust has in every election voted from 80% to 92% of the total votes cast. Because this trust structure has dominated the election of Trustees, in effect, it has indirectly dominated the affairs of Menominee Enterprises, Inc.

The low percentage of Menominee votes cast in the Trustee elections has resulted from many factors; the lack of adequate notice of these meetings by Menominee Enterprises, Inc., the increasing dispersal of Menominee around the country, the continuing lack of understanding by many Menominee caused people to boycott elections which they have regarded as essentially undemocratic.

DRUMS

In 1971, Menominees had their first chance to abolish the Voting Trust and gain direct control of their corporation. In anticipation of this, a grassroots organization, DRUMS, (Determination of Rights and Unity of Menominee Shareholders) was formed in 1970. Although the majority of votes cast were to abolish the trust, it remained in existence because we did not achieve the required 50% of outstanding shares. Many Menominee people are scattered all over the country and are unreachable, many do not understand all the legal complications involved in exercising their voting rights and above all, since the First Wisconsin Trust "bloc-voted" 48,000 shares to continue the trust, securing such an absolute majority was a next-to-impossible feat.

Another objective of the DRUMS organization was to stop what we felt was illegal sale of our ancestral lands. Article XII of our Articles of Incorporation requires that in order to "sell, exchange, assign, convey, or otherwise transfer" all or any portion of the real property which it owns, Menominee Enterprises, Inc. must secure prior approval "by the affirmative vote of the holders of not less than two-thirds of the outstanding shares of stock, entitled to vote thereon." If this Article had been followed our land would not have been sold in the Legend Lake project. Throughout history the land has been of utmost concern to us Menominee. The selling of the land tore at the hearts of our people. Complete hopelessness prevailed.

MEI EARNINGS AND FINANCES

Without proper planning and investigation concerning the welfare of the Menominee Tribe after termination, our tribal corporation was placed in a precarious situation. Menominee Enterprises, Inc. was saddled with staggering financial responsibilities. There was little consideration given to the potential viability of Menominee Enterprises, Inc.

At termination each Menominee was given $3,000.00, 4% income bond, payable in the year 2000. This interest payment results in a total cash obligation to our corporation of $350,000 each year. This income bond set-up also resulted in a long term indebtedness of our company of over nine (9) million dollars which is over ½ of our actual assessed valuation. Another staggering financial requirement that we have is our corporate taxes. These have been increasing each year and presently are around $600,000. Thus, before Menominee Enterprises, Inc. can show a profit it must make nearly one (1) million dollars.

Our present situation severely limits the amount of profit that Menominee Enterprises, Inc. can realize. The annual harvest of Menominee Enterprises, Inc. is restricted to 18 million board feet of lumber. The projected cut at termination was for about twice that much. Our lumber mill has the capability of processing 30 million board feet of lumber, and our operating costs reflect that capability. Menominee Enterprises, Inc. experienced losses in 1962 to 1964. The company showed a slight profit in 1965 to 1970. This was the result of an increased timber cut and sales of our land. Profits fell off sharply in 1971 and in 1972 Menominee Enterprises, Inc. had a net profit of "0".

LAND SALES

Menominee Enterprises, Inc., our tribal corporation established to control our assets, was forced to sell part of our homeland to raise badly needed cash. This represents the most dangerous threat to the continued existence of our tribe. Selling capital assets to raise cash provides no long-term solution to financial problems.

In 1968, Menominee Enterprises, Inc. launched its "Lakes of the Menominee" development by forming a joint partnership with a Wisconsin Developer, N. E. Isaacson. Our corporation allegedly sold 5,170 acres of land for development with profits to be split 50/50 after expenses and 5% sales commission for Isaacson. A 1,340 acre lake was planned, creating 86 miles of shorelines. Sale of Legend Lake's 2,600 lots was designed to enlarge the county's tax base to $45 million, easing Menominee Enterprises, Inc. tax burden.

The Legend Lake venture has been a questional economic success. The percentage of county tax paid by Menominee Enterprises, Inc. did drop from 90% in 1964 to only 55% in 1971. However, in 1971 when all lake development was assigned 36% of the property tax burden the assessed value of the county had risen from $17 million in 1961 to $32 million in 1972. Therefore, in real dollars Menominee Enterprises, Inc. paid more in tax dollars.

Our whole termination system was foredoomed economically. The full burden of providing employment, community services, and income tax revenue for the newly created county fell on our small lumber operation. As a result, Menominee Enterprises Inc. was forced to economize by reducing it's work-force. In 1961, Menominee Enterprises, Inc. employed 236 men compared to our present 175 employees. Thus, over ten years our labor force was cut by one-fourth.

The reduction in work force added to an already aggravated unemployment situation. Only 46% of our people ages 16 to 46 are in the labor force. The unemployment rate in our community fluctuates from 25 to 40%, the lowest in Wisconsin. With the withdrawal of the federal OEO funds the rate of unemployment is expected to increase to nearly 60% at times. Thus, a reduction in

Menominee Enterprises, Inc. labor force essentially means an increase in the welfare costs.

Like any other corporation Menominee Enterprises, Inc. has the commitment to show a profit to its shareholders. However, Menominee Enterprises, Inc. is unique in that it also has a social commitment to its shareholders, the Menominee people. Menominee Enterprises, Inc. must manage the tribal assets. We must protect the virgin beauty of our timber stands. We must develop new industry and provide as many jobs as is practical. In short, we must function as a tribal entity and a profit conscious corporation and these functions are becoming more incompatible as time goes on.

The efforts involved in establishing the so called "economic devlopment zone" (Legend Lake) by our predecessors on the board of directors and board of trustees, absorbed valuable time from the heart of our economy, our tribal mill. Consequently, we are trying with our meager profits to update our mill. One major chore is to replace the wiring some which has been there since 1927. Also, we face the necessity of installing water pipes with proper conforming size so we have water out to our lumber yard. The necessary diesel pump is estimated to cost $75,000. This price does not include the water lines and sawmill sprinkler system. In 1970, new boilers were installed at the cost of $600,000. This was expected to allow our mill to run at maximum steam capacity. It took 1-½ years, however, before this investment began to operate properly. In 1971, extensive mill modernization was begun when a chipper head rig was installed. Because of unforeseen problems our mill was out of production for nine weeks. Our lumber inventory and shipping ability have thus been affected adversely.

A new edger was installed also last year at a cost of $22,000. This machine is not heavy enough for our operation and cannot be used to grade cut our lumber. Last week after much investigation and deliberation, our board of directors authorized $30,000 for an edger that will meet our needs more adequately.

MENOMINEE OWNERSHIP THREATENED

Unless the Menominee people are restored to federally protected tribal status now, we will soon have to face up to a terrible decision. Shall we concentrate on our economic obligations to our shareholders or on our social obligation to our people.

Another problem that hangs heavily on our hearts is that in January, 1974, Menominee Enterprises, Inc.'s stocks will become negotiable on the open market, according to termination laws. We have asked for and received two extensions on the moritorium of sale. Upon receiving the last extension we were told that this would not happen again. When our stocks become negotiable, control of Menominee Enterprises, Inc. and our land can easily pass out of the hands of the Menominee people. Menominee Enterprises, Inc., if not financially solvent will be unable to buy the shares of individual Menominees and the State of Wisconsin or individuals of the non-Menominee public will buy into our Menominee assets.

When the stocks become negotiable many Menominees may be forced to sell their stock in order to receive welfare or public assistance. Under the present eligibility requirements, recipients for Old Age and Blind Aid Assistance are not allowed more than $750 in liquid assets and those receiving Aid to Dependent Children cannot have more than $5,000 in liquid assets. Presently, the stock is not included when determining eligibility for assistance. Since the right to vote in shareholders meetings for trustees is obtained through ownership of the stock, partial control of the corporation would be held by non-Menominees.

Our DRUMS condidates for the trustee board have promised to retain the human element in our corporation. We have stopped the dissipation of our assets, we have increased active Menominee participation in the last four years from a low of 2% to 49%. However, complete social obligation would be detrimental to the efficiency of Menominee Enterprises, Inc.'s operations. To pay full bond interest to the bond holders and adequate salaries to our sawmill workers while attempting to maintain our assets for our posterity is an impossibility for a mill with inflated operating expenses and property taxes.

Culturally, our land is not "surplus". From 1854 until termination in 1961, we steadfastly and successfully resisted all efforts to reduce our land holdings by refusing allotment, which was an experiment that imposed private property ownership on Indians. Holding our assets and people together was the dominant theme for the Menominees for one hundred years. The cultural values of our people have always been focused on our land as a tribal and not individual holding. The interests of the tribe have taken precedence over individual interests; thus selling our land was against every belief and value held by the Menominee people.

Indian people by nature are not competitive. Yet termination forced competitiveness and is destroying our tribal values. Competitiveness is not necessarily "bad". But to expect us to no longer function emotionally, culturally or legally as Indians has serious adverse affects.

The instances of arrests due to alcohol related offenses is three times higher in Menominee County than on any other reservation in the state. Less than 24% of our children complete high school compared with over 54% for the State of Wisconsin.

Restoration of the Menominee Tribe is the only salvation for the Menominee people and their corporation. With Menominee lands safely back in trust and the enormous tax burden lifted from our mill, we will once again be able to plan confidently for the future. Our children and their children can be assured of retaining our most important asset—our ancestral lands.

With an increase in jobs, we will correct the very severe condition of poverty in our community. At present our average per capita income is $1,028. Fifty-six percent of our families have incomes below $6,000 a year. Thirty-five percent of our families receive public assistance. Less than one-fourth of our adults have finished high school. Over 37% of our homes are over crowded, 43% lack complete plumbing and only 38% have telephones.

In our present situation, Menominee Enterprises, Inc. can never be a viable corporation. The inescapable conclusion is that the extremely low socio-economic indicators confirms our tribe's knowledge that we have remained trapped in poverty since termination. The only solution is to have Congress restore us to federal protection immediately. It would be extremely wrong to compel us to wait for 2 years as the present bill proposes. We do ask that your committee recommend the original bill worked out and supported by our Menominee people.

Mr. MEEDS. I would like to thank both for your testimony. I will start questioning you, if I may, Mrs. Wilber.

I was tremendously impressed, when we were in Menominee County, with the tour that you gave us, particularly the tour of the sawmill and your knowledge of how the sawmill runs. I suppose I should not be at all surprised, since you are the chairperson of Menominee Enterprises which runs that sawmill.

But I would like to ask you a number of questions about the mill operations. No. 1, if the Menominees did not own their own timber, would they be able to show a profit at all with that mill? In other words, if they had to buy their timber on the open market?

Mrs. WILBER. If the Menominees had to buy their own timber, they would never show a profit. Our operating costs are such that we just would never be able to make it. The only way we are sustaining now is because we own the timber. We could not compete with any other lumbering.

Mr. MEEDS. Do you have any idea, Mrs. Wilber, the cost of upgrading that mill to one that would be competitive in the open market situation? Can it buy its own timber?

Mrs. WILBER. At the present time, we are in repairs now. Last year we started to economize and do a complete modernization of the mill. We put a chipper head rig in on the right side. The mill was down for 9 weeks because of unforeseen complications. We were out of production for 9 weeks. Our inventory reflects our downtime. We have not been able to catch up yet. We are looking forward to putting another chipper head rig on the left side. However, that is not this year. We cannot afford to be down any longer than 2 weeks. We cannot even afford to be down for 2 weeks, but of necessity we have to.

We are in the process now of ordering a new edger. Last week, the management put an edger in which did not fit the needs of our lumber mill. That cost $22,000 for that machinery. We are now putting in a six-saw edger, which is a heavier edger, which is going to be able to allow us properly to grade-cut our boards.

Mr. Meeds. Would $1 million modernize the mill to make it competitive?

Mrs. Wilber. I have no idea. We are thinking—we have no fire protection in the mill; it is going to cost an enormous amount of money and we are thinking of trying to do that in 5 years, phases.

Mr. Meeds. Well, do you envision a much different operation? Assume that the Menominee restoration bill passed in the present form. Would you assume that the BIA could come in and supervise the mill for you, or would you envision that the Menominee Enterprises, or at least a Menominee-run operation, would continue to operate the mill?

Mrs. Wilber. As I envision it, the Menominees, as it is now, will be able to handle and operate the mill. They are capable of doing it. We have the people that have expertise there and can do it.

Mr. Meeds. You have a forester?

Mrs. Wilber. We have a forester.

Mr. Meeds. And people, Menominee people, that understand the operation of the mill?

Mrs. Wilber. That is correct.

Mr. Meeds. Are there any non-Menominees who work in the mill?

Mrs. Wilber. Yes; there are non-Menominees.

Mr. Meeds. How many? What percent of the total work force?

Mrs. Wilber. 2 percent. It is almost 99 percent Menominees, almost totally Menominees, but we do have a few non-Menominees working there.

Mr. Meeds. And most of the people in management positions and decisionmaking positions are Menominees, are they not?

Mrs. Wilber. That is correct.

Mr. Meeds. As with other operations of Menominee Enterprises?

Mrs. Wilber. Yes.

Mr. Towell. Will the gentleman yield?

Mr. Meeds. I would be happy to yield to you.

Mr. Towell. You say it is 99 percent. I find that, even the 1 percent, a little unusual. You have said that you have a very high unemployment, a very serious problem. I would think that every single job would count for somebody. Why have some jobs gone to people that are not in your tribe?

Mrs. Wilber. Because they do not have the expertise to handle them. Our forester, for one, is a non-Menominee.

Mr. Towell. Well, you have had 12 years of something like that, to gain that expertise.

Mrs. Wilber. We have not always had control of our corporation. This year marks the first time Menominees have had total control of the corporation. We have previous to this been controlled by two trust systems. One was the Menominee Common Stock and Voting Trust, which handled all the shares.

The second trust system was Wisconsin Assistance Trust, which handled all the vote of the minors and incompetents so-called of the Menominee Tribe. They then wielded an enormous control over the corporation.

Mr. MEEDS. The Chair will at this time recess the hearings for 10 minutes, while the gentleman from Nevada and I go over and make a vote. We will be back in 10 minutes.

[A brief recess was taken.]

Mr. MEEDS. The committee will be in session for further proceedings on H.R. 7421.

Mrs. Wilber, can you tell the committee what other businesses are run by Menominee Enterprises, Inc.?

Mrs. WILBER. We have a retail division known as Forest Edge, that we started as a wholly owned subsidiary of Menominee Enterprises, and they have taken the Federal HUD housing project for their initial project in the construction end, but that is dissolved. The only major building that they have done is the HUD building.

Mr. MEEDS. Any other enterprises?

Mrs. WILBER. That is all. Our forest, naturally, we have just recently reorganized, so we have the three major divisions, which would be the forest, the mill, and Forest Edge. That is all Menominee Enterprises has.

Mr. MEEDS. What role does Menominee Enterprises have, if any, in the sale of land?

Mrs. WILBER. Menominee Enterprises, because they were the sole owners of the former reservation, was entrusted with the assets of the Menominee people. Because they were so hard pressed financially and felt they needed a tax base, the only alternative for them was the sale of land.

Article 12 then enters into the picture, whereby—article 12 calls for two-thirds of the votes of holders of the shares, and the trustees at that time interpreted this to mean that it was two-thirds of them, which meant, then, that five people could have the say of the land sales.

And this is what happened, that the trustees, then, passed a resolution for the sale of land. This is how the land sales developed.

Mr. MEEDS. How would the breakdown of total costs, say your tax costs—how would that work out? How much of that is being provided by the mill operation, and how much from the sale of land in the last year or last 2 years? Could you just give us some vague idea?

Mrs. WILBER. In the beginning, Menominee Enterprises paid 90 percent of the taxes. The last assessment was 55 percent of the taxes that Menominee Enterprises paid. However, the actual dollars was more, although the percentage was less. The actual dollars Menominee Enterprises paid was more, in taxes, and this is what——

Mr. MEEDS. In the last year?

Mrs. WILBER. That is correct. All through—this is what confused the people, as well. We were always told that the percentage of taxes was down, but we were never told the total, real value was increasing so that we were paying more in tax dollars.

Mr. MEEDS. How much of the income from the operation of the mill last year was paid for taxes for the rest of the Menominee property?

Mrs. WILBER. About $550,000, I believe, was our taxes for last year.

Mr. MEEDS. What was your total net income before taxes?

Mrs. WILBER. We had a net income of zero last year. We did not—we were not even able to pay the total payment, 4 percent income payment, to the bond holders. We only paid about two-thirds, I believe; it was $78, whereas the total would be $120. So we did not make enough to pay the complete bond payment, and we had a net profit of zero.

Mr. MEEDS. Now, in the event that type of thing would continue, how would you proceed? Say you had to go through that next year, what do you think would happen?

Mrs. WILBER. Well, what the—I do not really know what you mean.

Mr. MEEDS. Well, if you were to be in that same posture next year, in 1974, what would happen to Menominee Enterprises, Inc.?

Mrs. WILBER. We would not be able to make any repairs on our mill. We would not be able to update it, because we cannot and have not been able to update the mill. In regard to the fire protection, our premium on insurance has risen by 50 percent this year. The safety features in the mill with the OSHA Act are very hard to comply with. We are having a difficult time keeping up with that. So, we would be most likely out of existence. We are having a very difficult time just to sustain——

Mr. MEEDS. That is what I am just asking. Is the BIA accurate in saying that in the absence of either massive infusion of funds or passage of a restoration act, Menominee Enterprises, Inc. for all practical purposes will probably be dead in a year?

Mrs. WILBER. That is correct. That is one of the reasons why we are hoping that the $250,000 comes through from the state to hold us and sustain us until we can achieve restoration, because our corporation is in critical condition.

Mr. MEEDS. Just a couple of questions of you, Ms. Deer.

You were here, I think, when the Council of Chiefs resolution and accompanying letter was presented to the committee by Mr. Froehlich. Were you here? Have you had an opportunity to read that resolution and the accompanying letter?

Ms. DEER. I have read through it briefly. I have not read it thoroughly.

Mr. MEEDS. Did the letter and resolution appear to be to you contradictory in terms?

Ms. DEER. That would appear to be the situation, yes.

Mr. MEEDS. Do you have any knowledge about why this might have occurred; why the names of some of the people who signed the resolution were not on the letter? In fact, almost all the people who signed the resolution were not on the letter. Do you have any knowledge of the background of that matter?

Ms. DEER. Well, I know that for the past several years the Council of Chiefs has not really been a functioning organization. It has been very difficult to get information about the activities, about their other projects. We understand that it is a rather defunct organization. We have not had any public meetings; they have not proceeded according to the usual procedures of organizations of this kind.

Mr. MEEDS. You are the Chairperson of the Voting Trust. What does that mean? What are your duties? What is the Voting Trust?

Ms. DEER. The Voting Trust was set up under the original termination plan, worked out when termination occurred and was final in 1961. We have very important functions. One is to elect the members of the Board of Directors of our corporation, Menominee Enterprises, Inc.; to set some of the policies and to, you know, oversee the activities and assets of our tribe.

We have delegated this through the trust document to the Board of Directors of MEI. I would like to point out, too, that just this year, January, to answer Mr. Towell's question, this is the first time since termination that Menominees have complete control over a corporation and our trust.

Mr. MEEDS. What obligations does your trust have in terms of money? Mrs. Wilber talked about bonds, for instance, and I think there is some stock also. Would you tell the committee just basically what the obligations of the Voting Trust are and how you would handle those under restoration, if this bill were passed?

Ms. DEER. I would like to refer part of the question to one of our legal counsel who could give you the technical interpretation of the trust.

But as I mentioned earlier, one of our important functions is to elect members of the Board of Directors of the corporation. This was the first year that we have been able to elect all Indians to our corporate board.

As we would envision functioning under the trust relationship with the Government, we would like Federal protection, not Federal domination. We would like to be able to carry through under the policy of self-determination. I think Mrs. Wilber has demonstrated to you in the written testimony and in her comments here that we have Menominees that are capable of running our corporation. What we need now are some technical assistance, some additional training. But we have been proceeding since January in this general direction.

So I would like to refer that other part to our counsel.

Mr. MEEDS. Would counsel please identify himself and answer what the obligations of the Voting Trust and/or the corporation are, and how this would be expected to be paid off or handled under restoration?

Mr. PRELOZNIK. My name is Joseph Preloznik, and on my right here is Charles Wilkinson.

The Voting Trust was established pursuant to the termination plan, and there is litigation pending in the State court, questioning whether the Voting Trust was properly created, because the act was not followed. When the assets of the corporation were conveyed from the Secretary of Interior, they were conveyed through a negotiating and coordinating committee which was outlined in the plan.

This negotiating and coordinating committee conveyed this to the corporation and then proceeded to exchange for the assets of the tribe, the stock certificate for the total amount of the shares in the corporation, which were then conveyed to the voting trust, which was made up of seven individuals.

These seven individuals ac as the shareholders in the normal corporation and are generally entrusted with most of the duties of the shareholder, with the exception that article 12 has been interpreted by a State court at the present time and is presently on appeal that the holders of the shares for the purposes of selling land are the Menominee shareholders and not the voting trustees.

Mr. MEEDS. Assuming that restoration were to take place pretty much as the terms of this bill dictate, how would you satisfy these shareholders?

Mr. PRELOZNIK. Well, the shareholders at the present time do not have any right in the shares, at best an inchoate right, in the shares. They do have a right, a present right, in the bonds which are $3,000 in amount, and they are redeemable in the year 2000, and pay interest at the rate that Mrs. Wilber discussed, 4 percent per annum.

That would be an obligation that would continue after restoration, because it is a corporate responsibility and would be paid off out of any assets and proceeds that the corporation earns between now and the year 2000.

I might like to point out, although termination took place almost 11, 12 years back, that there has been no reserve set aside for the retirement of these bonds, much like no reserve has been set aside for depreciation and replacement of equipment. As a result, even if there appears at times to be a profit at the end of the year, that this is illusory, because the proper monies have not been allocated for the bond retirement nor for the replacement of machinery as it wears and needs replacement.

Mr. MEEDS. Do you think the holders of the bonds will be benefitted or injured by the passage of this restoration legislation?

Mr. PRELOZNIK. Obviously, they would be benefitted.

Mr. MEEDS. Would you please tell us why?

Mr. PRELOZNIK. The reason is, at the present time, and the projection of the comptroller of the corporation indicates that the taxes for the coming year for the corporation would be in a sum of $700,000. This money, instead of being used to pay property taxes, could very well be used to set up the necessary reserves for the bonds, the necessary reserves to provide for adequate replacement of machinery and equipment procedures, which could not possibly be done without restoration.

The economic demands on the corporation are much too great under the present arrangement, as we saw the bond holder and the shareholders both stand in jeopardy of losing their corporation and their assets.

Mr. MEEDS. Just one more question, Mr. Preloznik.

The bill provides, in effect, for the Menominees to prepare the roll and the Department, while supporting the legislation, suggests that the Secretary should prepare the roll.

Is this something that the Menominees feel very keenly about? Is it something that might be done by them under contract with the Secretary? Why do you want to prepare the rolls?

Ms. DEER. As I indicated earlier, we wanted Federal protection, not Federal domination, and we would like to assume as many obligations and responsibilities as possible. We would like to have a new relationship with the Federal Government. We realize that in the past the Secretary had the authority and responsibility and obligation to assume many of these responsibilities on behalf of the tribe, and we are attempting to assume some of these responsibilities ourselves.

So, therefore, we are emphasizing tribal decision-making. The Secretary is emphasizing the Secretary's decision-making. Yes, it would seem to me it would be possible under the new thrust in the Department of Interior to subcontract with the tribe for this particular responsibility.

Mr. MEEDS. Thank you very much.

The gentleman from Nevada.

Mr. TOWELL. I have a few questions about what you just talked about. What do you mean, you want protection and not domination? Would you expand on that idea a little bit?

Ms. DEER. In the past, the Bureau of Indian Affairs has been paternalistic. It came up with some of the policies and activities, and we feel that with the new thrust of concertation on these tribes with the interest of many of our young people, in assuming much more responsibility that we can and we should assume more responsibility.

Dr. Philleo Nash, the former Commissioner of Indian Affairs, presented testimony during our field hearings, in which he also mentioned the new contracting procedures that were being carried out and implemented with the Bureau of Indian Affairs and some of the other tribes. He suggested that this should be and can be a new and better relationship between the Government and the Indian people.

Mr. TOWELL. I did not mean to put you on the spot.

If you go back, I believe you talked earlier—and I do not know what your testimony concerned—but you said there was a slight profit or some type of profit 9 years out of 12. What happened to that? Where did that go, if there was any, or was it just a bookkeeping profit? What kind of deal was that?

Mrs. WILBER. In many instances, this could be referred to as a mere bookkeeping profit, because it was so scant. We did show, I think, in some years—and I am not exactly sure—$86,000, I think, was one year. And I am not saying there were 9 years. Last year we showed no profit. Three years we had net losses. As I say, it could be a bookkeeping profit, because there are $1 million—over $1 million worth of bonds that the corporation redeemed, where they are redeeming—one instance, they redeemed the bonds for land at 70 prcent of the value of the bond.

And after that, the cash value was paid 40 percent, so that would be $1,800 were attributable as a profit when, in essence, there was no profit. We redeemed the bond; the profit was not actually there.

In regard to where the profit went to, I could not exactly tell you. I think most of that was just a bookkeeping figure.

Mr. WILKINSON. Mr. Chairman?

Mr. MEEDS. Yes.

Mr. Wilkinson. If I might mention——

Mr. Meeds. Would you identify yourself, sir?

Mr. Wilkinson. Yes. Charles Wilkinson.

The profits were also somewhat illusory in that, during several years, all or part of the profit could be attributable to the sale of land. Of course, that was the sale of the corporate assets, which, in a sense, would show a profit for that year. But, of course, the assets would be accordingly diminished. This land, of course, was the most important corporate asset, so that part of the profits would be attributable to that also.

That land sales program has now been repudiated by the corporation.

Mr. Towell. Well, you seem to somehow have gotten into a terrible financial bind. I would like to also go back to the tax situation so it is clear in my mind. From the two or three business entities, mainly the mill, that generated money, the mill wound up paying the tax for everything. That is my understanding of it. Is that how it worked?

Mrs. Wilber. This is the complex structure that I talked about that was created when termination was initiated. Our county encompasses what was the total reservation limits, and all of that property was conveyed to Menominee Enterprise as a tribal entity, so that they were the largest owners, or the only owners, to begin with.

Now they are still the largest owner, property owner, in the county, so, then, they have to pay the taxes on their holdings.

Mr. Towell. I understand that now. They were the total owner, 100 percent of the land within the county. Actually, what percentage would have been sold off over the years?

Mrs. Wilber. The last—one of the estimates that we did, came out recently that the total Menominee and non-Menominee land sales are in excess of 12,000 acres, as compared to the total 244,0000 was approximately the total corporation lands on the reservation before termination and then in excess of 12,000—in some estimates it has been 15,000.

We have—our objective now is to buy back land as it becomes available, and we have done that in regard to the shareholders. Menominee Enterprises does have the first right of refusal, and the present board members, their objective is to get back as much land as it becomes available for the Menominees. We cannot always afford that, but as we can afford it, we are picking that up to add to the total tribal——

And right here I would like to add my own thoughts on the land sales and what we fear if the bill would go in as it is now and would allow the Menominees to put the lands sales in their constitution. We felt that were were secure in our land-holdings with article 12 of our bylaws, but we are not always assured that the leadership or the people in control of the tribe will have the same feeling as the present board and those that are in control now. We found that out when the land was sold.

At the present time, we have a moratorium on the Menominee Enterprises land. We are leasing only to the shareholders, but we are not assured that this will always happen. We can see that the tribal leadership may feel hard pressed enough to sell the land. Even if it was in the constitution, it is easier to change there. Whereas, looking at it in the total bill would be difficult to change and sell the land.

Mr. **Towell**. Outside—there are two figures in here, $20 million with the special Federal and State grants since 1961, plus $1½ million of OEO money since 1965, and that comes to $21,500,000. Has there been any other private money or grants or outside money come in?

Mrs. **Wilber**. Besides through the corporation?

Mr. **Towell**. Yes.

Mrs. **Wilber**. I——

Mr. **Towell**. Well, there might be foundations doing special studies.

Mrs. **Wilber**. We know of none at the present time. There may be a small amount of it to the individual groups that may have received proposal money during that time.

Mr. **Towell**. It is my understanding that the total count now, as of 1973, would be about 2,400 Menominees living?

Mrs. **Wilber**. The last census was 2,600.

Mr. **Towell**. 2,600. Excuse me.

And you started in 1961 with what—3,600, 3,700?

Mrs. **Wilber**. 3,270 enrolled Menominees.

Mr. **Towell**. Okay. Well, it seems that along the way, the money that is generated, the money that is coming in grants and Federal funds, that there has been a little bit of mis-management that you wound up in the chaos that we seem to have arrived at.

One other problem that you stated that your voting turnout is very, very low. Before—well, prior to 1961, what was your, say, political setup, or how did the tribe run itself at that time?

Ms. **Deer**. The tribe operated under a general council. An adult member could come, could speak, participate, and vote. There also was a Menominee Indian Advisory Council. This also consisted of 12 people that were elected on a representative basis, and they conducted the business affairs of the tribe.

Mr. **Towell**. Well, my point being what was your voter turnout at that time?

Ms. **Deer**. A quorum at that time was approximately 75 people. I cannot answer your question definitely. I have not done, you know, an analysis of this. But the point is that the people had the opportunity to participate, and they did have general council meetings several times a year in which the activities and plans of the tribe were discussed and people had the opportunity to present their viewpoint. Also, people could attend the advisory council meetings.

But under the situation that developed after termination, there were closed meeting of Trust, there were closed meetings of the board of directors of the corporation. It was very difficult to obtain any type of information. The only type of opportunity that the Menominees had to participate in this whole corporate structure was to elect one trustee per year.

The trust was basically controlled by non-Menominees. Out of that seven-member trust there were four whites and three Indians. And the First Wisconsin Trust fund of Milwaukee back in 1961 had approximately 43 percent of the vote consisting of the votes of the minors and the incompetents. So it was very difficult for the Menominees to overcome that bloc.

Back in, starting in 1969, 1970, some of us decided that we would begin working how to change this. As a result, we have increased the participation and the voting of Menominees and the shareholders selections from the low of 2 percent several years ago to 49 percent in our recent election. We have done this through conducting extensive campaigns, proxies, calling people, home visitations, and this kind of thrust. And the thrust of the movement has been restoration, stopping the land sales, and Menominee participation.

Mr. TOWELL. I understand from my colleague, the chairman of the subcommittee, that the Menominee people have started many, many years ago a reforestation program and have done very well with that. However, I would like to question the question of the mill itself.

Has there been any—have you asked for, or have you received, any overall analysis of where you are going with that or what needs to be done, besides patch something up here or patch something up there? Is there an overall plan for the mill?

Mrs. WILBER. What we are planning to do is to get the mill that we have now in operating condition so that we can efficiently operate it. Once we can get that going so it is profitmaking——

Mr. TOWELL. But do you have a plan that will go step 1, 2, 3, 4, that winds up down here, 6 months from today, 2 years from today, whatever time it takes? Is there a plan around that will do that?

Mrs. WILBER. We have developed a plan, and again, it is money. If we can have some extra money whereby we would not be operating at a net loss, or net profit of zero, if we can get some of the burden lifted from our backs, we could expand into the lumber—some phase of the lumbering.

We feel that this is the best way to go in our present condition, because we are a lumbering industry, so we would like to develop that.

Mr. TOWELL. I understand, you do have a financial problem. But is there any—is it written down, step by step, for the mill operation, somewhere? Because the answer to everything at the Federal level is give us some more money.

Mrs. WILBER. This is what they are doing now, yes.

Let me tell you. Before we took over the present board, the present trustees, there was very little organization whatsoever in the mill. So we are taking it step by step, and our first objective is to organize the work force that we have now, giving them specific job duties and job description so that they know what they are responsible for, giving them—delegating responsibility to them, and the necessary authority for them to carry out that responsibility.

Once we can achieve that—there was a complete disorganization betwen the men in the mill and the management, total mistrust. So that comes first. And we are planning for the future as to expand, but we have to settle the attitudinal problems first, before we can move on.

I would like to comment a little bit on the tribal council, as well on the voting. We have, as Ada said, the 75 Menominees that constituted the quorum. I would like to point out that at that point when the adult Menominees voted, they knew that this is what was going on.

The change that occurred in the trust structure, that came into being at the time of termination—we had the adult Menominees there, but when the bloc vote was cast by a non-Menominee who lived a few hundred miles away—he came up and outvoted every Menominee that was there. Well, the Menominees began to feel, it is useless to even try. And so this is where we have the 2-percent drop in participation. So it is only human to realize that if your wishes, and the majority, is not going to be carried out, why waste time going there and being told what you want to do is only advisory. We do not have to do it, the trust has control.

Ms. **Deer.** Mr. Chairman?

Mr. **Meeds.** Yes.

Ms. **Deer.** I would just like to make a couple of other comments in response to your previous question. Back in January, when we assumed control, we decided to call it the American Indian Management Institute, based in Albuquerque. This is a team of business analysts, both Indians and non-Indians. And they have come and visited our corporation and made a number of recommendations in their analysis, and we are proceeding now in the first time in our

We have engaged in board training, both for the trustees and for our corporate board of directors. We have sent our personnel down to the institute, and we envision a continuous inservice training program, so that over a period of time we will have complete capabilities to take over every aspect of our corporation. For example, we do have a young man who is a graduate student at the University of Wisconsin in business administration. He will graduate in another year, and we are hoping that we can utilize his talents in our structure.

So this is an example of how we would like to have a new relationship with the Government where we will have some protection, but
history of mill operations to have a complete business analysis.
at the same time we will have the authority to move as we feel is in our best interests.

Mr. **Towell.** Mr. Chairman, I have no further questions.

I would like to comment that I think both of the witnesses were very well informed and, believe me, I think there are a few of us up here and perhaps a few of you here today who are working towards a new relationship between the Department of Interior, the BIA, with the different Indian tribes around the country, and hopefully, we will be better off today.

Mr. **Meeds.** The gentleman from Alaska.

Mr. **Young.** Mr. Chairman, first let me apologize to you. I have numerous meetings to attend, and I am sorry I am late.

Mr. **Meeds.** We know this.

Mr. **Young.** I know you did. I have one question only.

Your mill in the present shape it is in, is it in operating shape? Is it in good shape? Will it take additional money to improve the operation of the mill?

Mrs. **Wilber.** It will take additional operating expenses to fix up the mill. I could not give you a definite figure. It is just—all I can say is, if we had $500,000 to put into our fire protection, we could use it. And then that does not leave any room for all the other necessary repairs that are there. So it is obsolete. We are trying to update it, but we have a difficult time in getting any new piece of machinery because the other pieces are so outdated. When we bring any new piece in, we necessarily have to tear down and add on, which takes more downtime.

Mr. YOUNG. I noticed in your report that the bill was supposed to have the capability of cutting 30 million board feet, and you had 18 million board feet. Is this due to the sales of forest lands, or is it your lands that you were supposed to get the 30 million board feet from?

Mrs. WILBER. The first projection of the BIA ordered report when termination was to occur was that the capability of our forests would be 30 million board feet. That is proved to be incorrect. They cut it at 1.22 million board feet, and the forest yet does not produce that much. Under the sustained yield, we are only allowed to cut what the forest produces, and that has gone from 15 to 18 million board feet, but all of that is not logs that can be run through a mill. You see, all of those are not saw logs.

Mr. YOUNG. If you were to refurnish and upgrade your mill, what would be based on the 18 million board feet?

Mrs. WILBER. What we hope to be able to do is—if we do that we would have to completely tear down the structure.

Mr. YOUNG. That might be a better route to go. If you are operating a mill that has a capability of sawing 30 million board feet, profit-loss would increase if you are operating a mill that is supposed to be cutting 18 million feet, and instead of putting money into a mill that will never make money because you do not have the timber to take it and run it at full capacity.

I am just balancing out here; I do not know which way you want to go. But I would hate to see you have a mill that has a capability of producing 30 million board feet, and will only have timber for 18 million board feet.

Mrs. WILBER. I am in total agreement with you; but I think you or someone else will have to give us the answer as to what we are going to do with the people, how we are going to generate money while we are constructing the new mill. This would be an ideal thing to do, completely get a new mill; and we have other problems.

Mr. YOUNG. Well, if you were to put in a new mill with 18 million board feet, the employment would be way down, would it not? But again——

Mrs. WILBER. It is a vicious circle.

Mr. YOUNG. Maybe you need a good fire.

[General laughter.]

Mr. YOUNG. Thank you, Mr. Chairman.

Mr. MEEDS. We are delighted to have you ladies as witnesses.

I think it is a sign of our time, gentlemen, that we are asking all these questions about the operation of mills and businesses of these women. It is a sign of Women's Lib, I guess.

Thank you very much. We appreciate it.

Our next witness is Vine Deloria, who is a noted author, an Indian philosopher, spokesman for progressive Indian movement—probably mostly noted for his authorship of "Custer Died for Your Sins"—and

I think as a spokesman for Indian people everywhere. He is a former constituent of mine, and may still be; I do not know.

Are you still a resident of the second district of Washington?

Mr. DELORIA. I moved, Congressman. I am in Colorado now.

Mr. MEEDS. I find it difficult to believe that you would go to Colorado rather than Washington State.

Mr. DELORIA. I have a piece of property up there, so I am still a taxpayer.

Mr. MEEDS. We are delighted to have you with us. I notice you have a rather long statement. You may proceed to summarize it, or you may insert the statement; or you may read it into the record, whichever you wish.

Mr. DELORIA. Mr. Chairman and members of the committee, I am very happy to be here, and particularly with this committee, which has shown great initiative, going out into the field to hear the Indian people and finding out exactly what the problems are.

I have been asked to appear on behalf of National Congress of American Indians, which has a national constituency of Indian tribes. My experience for the last 13 years has passed resolutions emphasizing the immediate repeal of the Menominee termination and the full restoration of the tribe. So I am appearing on behalf of the National Congress of American Indians and also I would like to appear as an individual.

One of the things that we have noticed over the last decade in attempting to raise the Menominee issue is continual references to the fact that you cannot unscramble eggs, or you cannot undo that which has previously been done.

Mr. Chairman, I have, as you point out, rather a large statement. I would like to just briefly summarize this, if I can be assured that it will be in the record.

Mr. MEEDS. Without objection, the prepared statement will be made part of the record at this point.

[The prepared statement of Vine Deloria follows:]

STATEMENT OF VINE DELORIA, JR., CONSULTANT, NATIONAL CONGRESS OF AMERICAN INDIANS

THE MENOMINEE TERMINATION

The Menominee Indian Tribe of Wisconsin is presenting before Congress several bills which, if passed, would restore and clarify their status as a federally recognized Indian tribe. The Menominees were at one time described as one of the most progressive of all tribes and were able to pay for many of its services with its own tribal income. In 1954 as part of the drive to discontinue federal services to Indian tribes and individuals, the Menominees were chosen as one of the tribes to be terminated from federal services and supervision.

The story of the Menominee Tribe since termination in 1961 has been a harsh one. The new rules and regulations which were applied to the tribe after it was removed from federal services greatly hampered the ability of the Menominees to continue their progressive movement toward self-determination. The avowed purpose of the law which terminated the tribe was to give the Menominee people additional control over their destiny, lives, and property. But the reverse situation occurred. Menominee assets and resources were basically controlled by a non-Indian corporation and private bank which acted as a trustee for many of the shares in the tribal property issued upon termination of their federal rights.

In the last several years, the Menominees have shown amazing recuperative powers as a community, and have organized DRUMS (Determination of Rights and Unity for Menominee Shareholders), a group which has led the efforts to repeal the termination act and restore and clarify the present legal status of the Menominee people. In 1968 the United States Supreme Court decided a case which arose over the question of whether or not the termination act should include the hunting and fishing rights of the Menominees, reserved by the tribe as property rights in the several treaties signed with the United States. The litigation revolved around a vital question of determining exactly what effect the termination of federal supervision, as articulated in the act of 1954 and its amendments, had on the vested property rights of the Menominee people. The Supreme Court concluded that the act transferred the responsibility for the jurisdiction of Menominee lives and property from the federal government over to the state of Wisconsin. Since the hunting and fishing rights were specifically excluded from the operation of Congress' Public Law 280, and the testimony during the hearings on the termination legislation made it clear that the intent of the act was not to violate any outstanding tribal treaty rights with respect to hunting and fishing, the court concluded that the tribe's treaty rights had survived termination and were in fact special and perhaps federal rights of the Menominee people.

The additional question raised by this decision concerned the nature of the tribe's legal status with respect to the termination law itself. Since it is a fundamental right of every Indian tribe to hold its property in common (Choate v. Trapp, 224 U.S. 665 (1912)) and the termination act in no way purported to dissolve the tribe, what then was the tribe's status with respect to both the state of Wisconsin and the United States government? The legislation now under consideration by Congress should more properly be characterized as a piece of legislation which clarifies the tribe's federal rights by restoring to them the full status of a federally recognized community.

Is the legislation under consideration a dangerous precedent, in that it attempts to undo something that has been done and complicates the apparently clearly defined conceptions held by Congress and the Department of the Interior of the rights and privileges of a federally recognized tribe? Some people have come to mistakenly accept the view that the Menominee tribe cannot be restored to full federal status because no other tribe has ever had their federal rights and privileges restored. Such a view does not conform to the actual events of history. It attempts to replace the determinations of past Congresses with an ambiguous conception of the present role of the federal government with regards to the existing U.S. Indian communities. The Menominee tribe is not asking for unique privileges which have not been bestowed on other tribes. Rather it is simply asking for the same considerations Congress has given a substantial number of Indian communities in the past. The Menominees have every right to expect Congress to treat them with the same consideration as other tribes which have had their federal rights confused, abrogated, amended, or complicated by a piece of legislation passed by a previous Congress.

The precedents, if any exist, strongly support the present position of the Menominee people as defined in their proposed legislation. Indeed, the precedents for this type of legislation are so numerous, they indicate that one of the major tasks of many Congresses has been to recognize prior inadequacies towards terminated tribes and to bring the victimized Indian tribes back under federal supervision. Nearly half of all tribes currently recognized by the federal government have at one time or another allegedly lost their federal support, either by decision of the United States Supreme Court or by the action of Congress. These tribes have eventually been given a clarified status as federally recognized Indian communities, a status the Menominees now seek.

In posing the question of whether or not any tribes have returned to a reciprocal relationship with the federal government following a piece of legislation which apparently severed their federal ties, one must assume that such a relationship with Indian tribes has been constantly and readily defined. This issue of inconstancy has recently arisen with the Menominee's petition for redress. Originally, the United States dealth with Indian tribes as quasi-independent nations which were fully capable of handling their own affairs. The assertion of the United States at the beginning of its contact with the Indian nations was primarily twofold: 1) that it would handle all foreign relations for the tribes over which it claimed, and 2) that it had a right to extinguish any title over tribal lands. It was not until the United States had achieved a superior military and economic hold over the tribes that it began to enforce and regulate their internal affairs and to supervise the operations of the tribal governing bodies and councils.

While all tribes now stand on the same practical basis with the federal government, it is the treaty-signing tribes which theoretically have special rights and demands on the United States over and above the generalized rights of Indian people. The various pieces of legislation such as the "Civilization Act of 1819" and the court decision *United States v. Sandoval* which articulates the responsibility of the United States toward the dependent Indian communities of the land, both address themselves to the general rights of Indian communities in a quasi-wardship sense.

> "Of course, it is not meant by this that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe, but only that in respect of distinctly Indian communities the questions whether, to what extent, and for what time they shall be recognized and dealth with as dependent tribes requiring the guardianship and protection of the United States are to be determined by Congress, and not by the courts." (page 46, United States v. Sandoval)

Over and above those rights which accrue to all dependent Indian communities are the specific treaty rights which accrue only to those tribes which signed treaties with the United States. The appropriation act of 1871 established the operational principle that the United States would no longer recognize any Indian nation for the purposes of signing treaties, but did not void the existing treaties and merely reaffirmed them as the supreme law of the land.

The Menominee tribe of Wisconsin stands in the first rank of tribes with special rights and privileges derived and confirmed by treaties with the United States. They have signed treaties with the U.S. in 1817, 1827, 1825, 1831, 1832, 1836, 1848, 1854, and 1856, and are specifically referred to in the treaties with other tribes in 1826, 1833, and 1848. In any realistic definition of the nature of a federal relationship with an Indian nation, therefore, the treaties of the Menominees would have to be among the most important and binding legal documents to which the United States must hold itself accountable. The testimony on the restoration legislation verifies that this legislation does not violate any existing Menominee treaty rights. As such, it is an eloquent argument for the tribe's present status being more a federal right, which cannot be casually legislated away to the state of Wisconsin, than the termination decision which deprived them of a contractual right entered into through treaties with the federal government.

The precedent of bringing into federal supervision those tribes which did not have, or lost, or were not entitled to federal recognition was established in 1871 when the federal government declared through Congress that it would no longer recognize domestic Indian tribes as legal entities with whom it would sign treaties. It then gave federal recognition (via legislation and the setting aside of executive order reservation) to a substantial number of Indian tribes, which was a far greater precedent than the pending Menominee legislation could ever hope to achieve.

Following the legislation by Congress which forbade by executive order the President of the United States to set aside any more Indian reservations, the policy of the federal government continued to recognize their responsibilities to Indian communities. The tiny groups of Indians in Nevada, for example, which began to congregate around the white settlements of that state, were first rather derisively referred to as colonies, and later given appropriations for alnd purchase. They were eventually brought into full federal relationship with the Indian Reorganization Act of 1934 when they were forced to vote on whether or not to accept the provisions of the act.

In the state of California, where the Indian treaties which the tribes had signed in good faith were deliberately hidden in lieu of ratification, the federal government still extended its recognition to the Indian communities. The government went so far as to purchase lands for them, move them to the lands, and organize them under the provisions of the Indian Reorganization Act. Many of the present reservations of that state are not among the oldest reserves for this nation's Indians, but are rather relatively new additions which have been recognized by the United States as being entitled to its services.

The state of Alaska lends an even better example of the willingness of the federal government to extend its recognition to Indian and native communities. The area was purchased from the Russian Government in 1867 with the promise that at some future date the United States would settle the native's claims if any were outstanding. A partial recognition was given in 1936 when the amendment to the Indian Reorganization Act made the Alaskan native communities eligible for organization under the provisions of the act. But it was only in 1971 that the United States finally settled the claims of these natives with a piece of legislation that, for all intent and purposes, was a modern day Native American treaty.

There can be little argument, therefore, that the nature of the federal relationship towards Indian tribes has been such that the United States has acted or been impelled to act whenever an Indian community has sought its assistance. Such responsibility has almost always been assumed by the United States, either immediately or within a definite period of time. The Menominee's predicament today differs from the other situations of Indian communities only in the respect that their problems are the direct result of Congressional policy, whereas historic accidents were primarily responsible for some of the difficulties of other tribes which sought federal assistance.

The federal relationship has been extended not only to those tribes which history or the developments of history have forgotten, but to a group of Indian communities which were specifically placed beyond the scope of federal power by a treaty with a foreign nation. In 1948 the United States signed the Treaty of Guadalupe Hildalgo ending the Mexican War. Under the terms of this treaty, those citizens of Mexico whose property rights were recognized by the Mexican government were granted a year in which to remove themselves from the ceded territory or accept American citizenship. Among these people were the present day Pueblo Indians of New Mexico.

The Pueblos held title to their lands in common under Spanish law, and their property rights were recognized by the United States under the aforementioned provisions of the Treaty of Guadalupe Hildalgo. In that treaty the United States promised to recognize all titles to land and property. A statute passed in 1858 by the United States Congress gave recognition to the Pueblo's title as well as three Mexican townships within the then territory of New Mexico. The early territorial courts recognized the citizenship of the Pueblos and they were given legal status as citizens of the territory.

For many decades the United States did not include the Pueblo Indians in its general or special appropriations for Indians, and they were not regular participants of the Indian programs conducted by the Department of the Interior or the Bureau of Indian Affairs. At the start of this present century a federal acknowledgement of the Pueblos was beginning to be made, because of the B.I.A.'s persistent problems in defining who was and who wasn't an Indian for the purposes of prohibiting liquour. In the landmark case of *United States v. Sandoval* which involved the question of United States responsibility towards the Pueblo Indians, the Supreme Court decided that the Pueblos, even with their rights of citizenship and property under the treaty of Guadalupe Hildalgo, were still entitled to the protection and services of the United States. In effect, the citizenship of the Pueblos was not sufficient to prevent the United States from exercising some control and trust responsibility for them. Conversely, the whole purpose of the Menominee termination hearings was frequently described by members of the Joint Subcommittee on Indian Affairs as the desire of Congress to "give" the Menominees "first class citizenship". That the individual tribal members had already received said citizenship with the Indian Citizenship Act of 1924 which specifically exempted their rights to "tribal and other property" apparently did not occur to the two Joint Subcommittee chairmen.

If, therefore, the United States can extend its responsibility for Indian communities to a group of Indians who are specifically vested with rights under a treaty with a foreign nation, it would seem that the power of the United States to arrange and re-arrange the status of Indian communities is virtually endless. Fortunately, the trend in Indian policy has consistently been towards a clearer definition of the responsibility of the United States, and not the stripping away of rights accruing to Indian tribes and particularly those tribes maintaining other treaty relationships.

> Lapse of time and allotment of portions of their reservations in severalty do not terminate the tribal relations of Indians, nor remove them from the supervision and control of the Interior department of the government. (U.S. v. Flournoy Livestock and Real Estate Co. (C.C.) 71 576 (1896))
>
> The government is not relieved from its duties of guardianship and protection of the members of an Indian tribe, assumed by treaty with such tribe, in consequence of the Indians becoming citizens of the United States. (U.S. v. Mullin, 71 Fed. 682 (1895))
>
> The right of Congress to enact laws in the interest of Indians as an independent people does not cease when the allotment is made and the alottee becomes a citizen of the United States. (Walker v. Brown, 141 P. 681, 43 Okla. 144 (1914))
>
> The guardianship of the federal government over an Indian does not cease when allotment is made and the allottee becomes a citizen. (Bowling v. United States, 34 S. CT. 659, 233 U.S. 528, 58 L. Ed. 1080 (1914))
>
> The grant of citizenship to the Indians in Indian Territory by Act. Feb. 8, 1887, c. 119, 24 Stat 388, as amended by Act March 3, 1901, c. 868, 31 Stat. 1447, was intended for their protection, and was not a renunciation by the United States of the authority which it had always exercised to adopt such measures as in its judgement were wise for the protection of the Indian in his rights. (United States v. Allen, 179 F. 13, 103 C.C.A. 1, reversing decree (C.C.1909) 171 F. 907))
>
> Citizenship is not an obstacle to the exercise by Congress of its powers to enact laws for the protection of tribal Indians as a dependent people. (U.S. v. Sandoval, 34 S. Ct. 1, 231 U.S. 28, 58 L. Ed. 107 1913))
>
> The duty and authority of the United States to act as guardian for Indians extends to the protection of individual Indians, even though they may have become citizens. (Cramer v. United States, 43 S. Ct. 342, 261 U.S. 219, 67 L. Ed 622 (1923))
>
> Congress may enact laws for the protection of the Indians, and the government is not limited to do so by treaty (Sunderland v. United States, 287 F. 468, decree affirmed. 45 S. Ct. 64, 266 U.S. 226, 69 L. Ed. 259 (1924))

The Pueblo precedent is so startling and encompassing as to make the argument over the proposed Menominee Restoration meaningless by comparison. What Congress has done, Congress can undo, what it has not yet done, it can yet do. But if the responsibility for the welfare of Indians can be extended to the Pueblos, who had rights to lands not as aboriginal peoples but as peoples deriving their confirmed titles from the King of Spain and the Republic of Mexico, then it would seem that restoration of the federal relationship of the Menominees is well within the traditional interpretation of federal power and responsibility to American Indians.

A more specific argument has been that Congress intended to release the Menominees from all dependency on the United States and that the termination legislation was specifically directed toward this goal. The pages of history reveal many similar pieces of legislation, and various treaty articles indicate that this particular misguided goal was frequently the subject of Congressional experiments in an effort to find a better means of fulfilling its responsibility toward Indians. There are numerous cases, however, where the responsibility of the United States was judged by Congress as overriding any temporary consideration of alternative ways of finding a solution to the problems faced by American Indians.

The General Allotment Act of 1887 was designed specifically as a termination policy. Under its provisions, tribal land estates were to be divided according to certain formulas and individual tribal members were to receive their share of the total tribal estate. Following the division of tribal assets it was presumed that individual Indians would forsake their culture and traditions and undertake to learn the culture and traditions of the white man. In the short period of twenty-five years, Congress visualized the disappearance of the tribal "mass" (as it was called) and the assimilation of tribal members into American society.

The General Allotment Act was barely four years old when in 1891, it was amended to include a provision allowing Indians to lease their lands:

> Where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be

> leased by authority of the council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior. (Allotment Act, 25 U.S.C. 397)

This amendment was a radical departure from the original program as articulated by Congress, for it meant that the transitional period of trust during which the individual Indian family was supposed to be experiencing the new life of a sedentary agriculturalist, was in effect postponed indefinitely while property management affairs absorbed the time and energies of the people involved and a new decision-making trust administrator.

The more the executive branch tried to enforce the allotment act, the more often the plan's basic weaknesses revealed themselves. It was not long before the periods of trust had to be extended through executive order and the whole fabric of the allotment scheme was discredited. The Meriam Report of 1926 severly criticized the plan of allotment which had been the cornerstone of federal Indian policy for four decades, and at least a major option for nearly a century. In 1934 the Indian Reorganization Act forbade further allotments of Indian lands and made provisions for tribes to begin repurchasing their ancestral lands through a program of loans and grants of lands themselves. To pretend, therefore, that Congress has never changed a policy when its weaknesses have become apparent is to discredit the perception of those respective Congresses who have attempted to repair the inequities of federal Indian policy wherever they have been detected.

The recitation of specific cases involving tribes which had supposedly been terminated and later taken back into federal supervision would be long and tedious. There are, for example, cases of more extreme proportions than the Menominee which have been totally reversed by the action of Congress and which involved the rearrangement of many laws resulting in more administrative problems and occupying a great deal more time. The point to consider is that when Congress has realized an injustice, they have consistently acted to correct it, whether or not previous Congressional policy or the policy and programs of the executive branch had helped to create it.

In the 1830's, the tribes of the southeastern United States were forced to sign "removal" treaties under which they were forced to move from their ancestral homes in Georgia, Mississippi, Alabama, Florida, Tennessee, Kentucky, Missouri, Arkansas, and the Carolinas, to the plains of Oklahoma. The tribes were promised that lands in the new territory west of the Mississippi would be held for them in fee simple title by the United States and that the United States would never enclose them within its boundaries.

As part of the inducement to move west, the individual members of Cherokee, Chickasaw, Choctaw, Creek, and Seminole people were given the right to withdraw from the tribe, and in effect exercise a right of expatriation to self-termination. By doing so, they would receive generous allotments within the new states that were being carved out of the old tribal territories. Some of the treaty articles are worthy of note:

> *Cherokee—New Echota Treaty of December 29, 1835, Art. 12*—Those individuals and families of the Cherokee nation that are averse to a removal to the Cherokee country west of the Mississippi and are desirous to become citizens of the States where they reside and such as are qualified to take care of themselves and their property shall be entitled to receive their due portion of all the personal benefits accruing under this treaty for their claims, improvements and per capita; as soon as an appropriation is made for this treaty.
>
> Such heads of Cherokee families as are desirous to reside within the States of No. Carolina, Tennessee and Alabama subject to the laws of the same; and who are qualified or calculated to become useful citizens shall be entitled, on the certificate of the commissioners to a pre-emption right to one hundred and sixty acres of land or one quarter section at the minimum Congress price . . .
>
> *Choctaw—Dancing Rabbit Creek, September 27, 1830, Art. XIV*—Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she

> shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land . . . in like manner shall be ntitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after ratification of this Treaty, in that case a grant in fee simple shall issue . . . Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

Of the 5 tribes subject to removal, the Creeks, Chickasaws, and Seminoles did not secure articles allowing tribal members to remain in the southwest. We do know that some Creeks and Seminoles did remain and eventually formed communities, and that these remaining tribes were given federal reservations and eventually recognized by the Indian Claims Commission and the United States.

What is interesting, however, is that under treaty rights, individual Choctaws and Cherokees who chose to remain were to become citizens of the states in which they resided. The Supreme Court declared in the case of The Cherokee Trust Funds that:

> Whatever union they have had among themselves has been merely a social or business one. It was formed in 1868, at the suggestion of an officer of the Indian office, for the purpose of enabling them to transact business with the Government with greater convenience. Although its articles are drawn in the form of a constitution for a separate civil government, they have never been recognized as a separate Nation by the United States; no treaty has been made with them; they can pass no laws; they are citizens of that State and bound by its laws. (page 309)

While the Choctaws retained their rights to annuities, for all practical purposes these individual tribal members were terminated from tribal existence by the treaty article. The first indication that they were not merging into southern society but were reforming Indian communities surfaced when the Cherokees purchased some lands in North Carolina. Because they held title to their lands they were not only subject to state tax but were also involved in the problems with schooling in that state.

Over the years the Cherokees petitioned the United States to once again grant them federal supervision, and the United States agreed to exert its power over the Cherokees. Finally, Congress passed a law admitting that the southern contingent was part of the Cherokee nation but gave them a status which can best be described as quasi-federal and not unlike the present status of the Menominees.

> That Eastern Band of Cherokees had surrendered the tribal lands, separated themselves from tribe, and had become subject to state laws, did not destroy federal government's right or duty of guardianship. (7 Stat. 478 of U.S. v. Wright, 53 F (2d) 300)

There was constant litigation over a more exact status of the Cherokees (similar to the litigation that is now arising for both the Menominees and Klamaths), and eventually the United States Congress upheld the doctrines articulated by the federal courts and passed a statute readmitting them to full status as a federal tribe.

The Mississippi Choctaw tribe of Mississippi have experienced much the same case history. The individual Choctaws who remained in the deep south following the removal of the majority of their tribe to Oklahoma, suffered extensive loss of their lands because of the state court's fraudulent decisions in handling cases that involved title to Indian lands. Their people became impoverished and were eventually reduced to a small group of squatters fixed in their ancestral homelands because they were too poor to do anything else. In 1898 the federal government began appropriations for this remnant of a community, although individual members were actually citizens of the state and not a legally recognizable Indian community.

Through the first decades of this century the Mississippi Choctaw received appropriations, and when the Indian Reorganization Act went into effect they organized under its provisions. From a conglomerate of individual Choctaws with no tribal government, and Mississippi status as private citizens, the Choctaws evolved into a federally recognized tribe replete with all federal rights and privileges.

The intent of Congress in ratifying the treaties of New Echota and Dancing Rabbit Creek was clearly to remove the tribes from the southeast, and make their lands available to the settlers coming into the south. The individual Indians who remained in the south by treaty definitions were to become citizens of the states and no longer enjoy the benefits of communal tribal existence. Today the Eastern Band of Cherokee and the Mississippi Choctaw tribe are two of the soundest and most progressive tribes in the nation. If there were such a thing as an irreversible federal policy which would affect all Indian peoples, it would have surely spelled disaster for these two groups following the ratification of their original treaties.. The fact remains that they were both given federal recognition and restored to their federal benefits.

The situation was somewhat the same with respect to other tribes that signed treaties. Congress provided in a statute passed on March 3, 1843 that the lands of the Stockbridge-Munsee Indians of Wisconsin should be divided into allotments. Following that division, the tribal government would be dissolved and the Indians would become citizens of the United States. Some of the tribal members wanted this legislation, while others did not, and there was great controversy over the status of the tribe. In the treaty with the tribe of November 24, 1848 the United States attempted to clarify their situation which had become a great deal more complicated than the Menominee situation.

The preamble of the treaty noted: Whereas by an act of Congress entitled "An Act for the relief of the Stockbridge tribe of Indians, in the Territory of Wisonconsin", approved on the third day of March A.D. 1843, it was provided that the township of land on the east side of Winnebago Lake, secure to said tribe by the treaty with the Menominee Indians of February 8th, 1831 as amended, by the Senate of the United States, and not heretofore ceded by said tribe to the United States, should be divided and allotted among the individual members of said tribe, by commissioners to be elected for that purpose, who were to make report of such division and allotment, and thereupon the persons composing said tribe were to become citizens of the United States.

And whereas a portion of said tribe refused to recognize the validity of said act of Congress, or the proceedings which were had under it, or to be governed by its provisions, and upon their petition a subsequent act was passed by the Congress of the United States, on the 6th day of August, 1846, repealing the said act of March 3d, 1843, and providing, among other things, that such of said tribe as should enroll themselves with the subagent of Indian Affairs at Green Bay, should be and remain citizens of the United States, and the residue of said tribe were restored to their ancient form of government as an Indian tribe. It was also provided that the said township of land should be divided into two districts, one of which was to be known as the "Indian district", and the other as the "citizen district"; the former to be held in common by the party who did not desire citizenship, and the latter to be divided and allotted among such as were citizens and desired to remain so . . .

The first article of the treaty then stated:

Article I. The said Stockbridge tribe of Indians renounce all participation in any of the benefits or privileges granted or conferred by the act of Congress entitled "An Act for the relief of the Stockbridge tribe of Indians, in the Territory of Wisconsin", approved March 3, 1843, and relinquish all rights secured by said act; and they do hereby acknowledge and declare themselves to be under the protection and guardianship of the United States, as other Indian tribes.

In other words, the situation became so complicated that it was impossible for any one to administer the lands of the Stockbridge or to determine their rights. Congress tried a solution which only aggravated the situation and so in desperation the United States signed a treaty with the Stockbridge in which the tribe forswore all that the United States had done and allowed themselves to be taken into federal protection once again. To have done otherwise would have involved extensive liability by the United States for the property rights of both the Indian and the citizens involved.

The Stockbridge live just a short distance south, down the road from the Menominee people in northeast Wisconsin. They purchased lands from the Menominees when the tribe was removed from New York state to the wilderness of Wisconsin. It would be ironic indeed if Congress failed to extend to the Menominees, the Stockbridge's old landlords, the same rights to retrocession and federal recognition which they received.

The treaty provision which severed individual Indians from their tribal community rights and participation, as witnessed in the Cherokee, Choctaw, and Stockbridge treaties, was not a unique one. The treaty of June 28, 1862 with the Kickapoos who are currently residing in Oklahoma as a federally recognized tribe, provided that after allotment of tribal assets, the Kickapoos "shall cease to be members of said tribe, and shall become citizens of the United States."

The Winnebago tribe of Wisconsin currently enjoys the federal recognition, rights, and services derived from those Winnebago Indians who had refused an earlier migration to Nebraska. They remained in Wisconsin and received allotments under the act of March 3, 1875 upon proof that they had abandoned their tribal relations. A special legislative confirmation of the status of these Winnebagos was noted in the act of January 18, 1881.

Almost as soon as the Winnebagos were terminated, Congress began reversal proceedings to end their termination. Special acts of March 3, 1909 (35 Stat 781), January 20, 1910 (36 Stat 873), July 1, 1912 (37 Stat 187), and December 17, 1928 (45 Stat. 1027) granted them further recognition and in 1937 the Interior Department determined that this group had the right to organize under the provisions of the Indian Reorganization Act. Congress apparently felt that even with the lack of a traditional tribal governing body, this little community deserved the right of organizing their own council and determining their future with the assistance of the United States.

The Wyandotte of Oklahoma have had an even more phenomenal history considering Congressional efforts to terminate their existence. In 1850, upon ratification of their treaty with the United States, the Wyandotte resigned themselves to the loss of their tribal status. It appeared that this provision would have accomplished the task, yet a mere five years later, they were reassembled to sign another treaty with the United States which again provided for extinguishment of their tribal character. Regardless of their legally terminated status, they continued to exist as a federally recognized tribe with all rights and benefits. In 1935 Congress again attempted to terminate federal responsibility for the tribe when it provided for distribution of Wyandotte funds which the tribe had in the federal treasury. Even this legislation was not sufficient to terminate tribal existence, because two years later in 1937 they were reorganized as a federally recognized tribe and adopted their own tribal constitution under the provisions of the Oklahoma Indian Welfare Act. Finally, during the termination period of the 1950's, Congress passed a law which again purported to terminate the tribe. Fortunately this law required that the tribal roll be prepared, and that the business of the tribe be finalized before severance from federal supervision. In the meantime, the tribal organization had deteriorated so badly that the process of preparing for termination brought the tribal organization back into function. For some years following the 1954 decision to terminate, the tribe has been attempting unsuccessfully to find a trustee for its cemetery in Kansas City as the final act prior to termination. Thus, the only apparent effect of the termination act was the revival of the tribal government as a requirement for fulfilling the statute.

The Ottawa tribe of Oklahoma signed a treaty at Blanchard's Fork in 1862 which provided for termination of tribal existence within five years. The negotiations over the exact nature of the termination became rather complicated, and as a result the preparatory period expired before the termination program could be put into effect. In 1868 another treaty was signed with the tribe which effectually extended indefinitely the life of the tribal organization. The Ottawa tribe continued their tribal existence and organized under the Oklahoma Indian Welfare Act in 1937. They again entered a period of preparing for termination, following legislation in 1956. The outcome of this present episode in the life of the tribe is still unpredictable.

The admission of the state of Oklahoma provoked what will probably be the single most continuous and confusing Indian situation in the nation's history. The governments of the Five Civilized tribes were supposed to be dissolved prior to statehood, with a remnant of tribal government to remain only for the purpose of securing the final dispersion of tribal assets. Yet the tribal government, and federal recognition involved with such a government, have both continued from 1906 until the present day. The tribes have been eligible for filing claims with the Indian Claims Commission, sponsored programs during the war on poverty era, received federal loans and project moneys, and have recently had their constitutions revised by Congress to allow the people to vote for their own chiefs and governors. They still maintain tribal lands, and in some cases have had lands given to them. Several years ago the Cherokees won a landmark case involving their title to the riverbed of the Arkansas river, a treaty right of a century standing.

Under assurances given by the United States to the new state of Oklahoma, and through the provisions of several pieces of legislation purporting to dissolve most of the Oklahoman tribal governments, abolition of Oklahoma reservations was supposed to terminate formal Indian tribal structures in that state. With the exception of Osage County, (the area which is actually the old Osage Indian Reservation), Indian communal existence and federal recognition for Oklahoma Indians was scheduled to cease with statehood. Remarkably, federal responsibilities continued, and through numerous cases in the 1920's and 1930's the United States began to retrieve its powers and responsibilities with respect to the Oklahoma tribes. The Oklahoma Indian Welfare Act, passed in 1935, gave federal recognition back to the tribes of this state, and enabled them to reorganize their tribal governments.

Section 3 of the Oklahoma Indian Welfare Act stated: "Any recognized tribe or band of Indians residing in Oklahoma shall have the right to organize for its common welfare and to adopt a constitution and bylaws, under such rules and regulations as the Secretary of the Interior may prescribe. The Secretary of the Interior may issue to any such organized group a charter of incorporation, which shall become operative when ratified by a majority vote of adult members of the organization voting . . ."

The pretense, therefore, of the argument that to repeal the Menominee Termination Act would create a dangerous precedent in the continuing development of federal Indian policy is preposterous. More often than not, the tendency of Congress has been to face the problems of individual tribes as unique opportunities through which to exercise both the powers and wisdom of Congress. The federal relationship toward American Indian tribes would not appear to be a relationship that can simply be disposed of. It is rather a long term commitment by the United States to render such assistance as is necessary for tribes, bands, and identifiable groups of Indians to maintain their cultural, communal, and political identity in the face of an increasingly complex and alien world.

The Menominees deserve the sympathetic attention of Congress because, unlike the Cherokees and Choctaws of North Carolina and Mississippi, they did not choose to leave federal supervision and services. They were told that they had no choice but to approve the principle of termination in order to receive their own funds which the United States was holding in trust for them. Having given their tentative, non-majority approval of the principle of termination, they then discovered that this statement had been interpreted as an enthusiastic endorsement of the legislation which was then allocated for them. Such over-zealous activity on the part of Congress is not consistent with the high standards of legislative conduct which the above examples indicate has generally been the Congressional sentiment.

The Menominee people and the other American Indian people who support the Menominee, ask only for the exercise of Congressional wisdom and treatment equal to that given other tribes who, once terminated from federal supervision, were restored their rights. These restored tribes are currently enjoying the benefits which were ngotiated for in their treaties with the United States.

The Supreme Court decision in the Menominee case of 1968 placed them in the same position as the Sandoval decision did concerning the Pueblo people or the Wright decision was applied to the Eastern Band of Cherokees. Their position was that the federal government has a definite responsibility to the tribe but the nature of that responsibility is unclear. This restoration legislation now proposed would clarify the status of the tribe by affirming the decision that they are once again a federal Indian tribe with full rights and privileges.

Rather than a rigid marking of rules and regulations, as the administrative branches of the Interior Department would often have it, the relationship between the U.S. and American Indian tribes has been marked by Congressional experiments and inconsistent policies. Choate v. Trapp, a case involving the Chickasaws and Choctaws of Oklahoma, makes a careful distinction between the plenary power of Congress to amend or repeal an agreement and the constitutional prohibition against Congress destroying existing rights acquired under a treaty, agreement, or statute.

The history of federal Indian relations would seem to indicate that Congress has often recognized this limitation on its powers, and that wherever it has found an injustice or deprivation arising from an action of a previous Congress or administration, it has sought to remedy the situation and bring justice to the situation. Far from being a bad precedent, the repeal of Menominee termination (25 U.S.C., SS 891–902) is well within the historic role which Congress has defined for itself.

STATEMENT OF VINE DELORIA, CONSULTANT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. DELORIA. Now, what I have done with this statement is to basically review this one particular point of the Federal-Indian relationship which is specifically the number of times that Congress or the Executive has, in effect, terminated a tribe and at a later date, recognized that termination was unwise, premature, or unwarranted, and, in effect, taken the Indian people back under full trusteeship. I think if you go through Indian country today, you will find almost a majority of tribes have at one time or another had their Federal relations severed, and then subsequent Congresses, who had additional information, in my opinion, acted in an advisory capacity, restored these various tribes to full Federal supervision and full Federal services.

I think you can include among those groups all of the Pueblos of New Mexico, who until 1913 were not regarded as Federal Indians and who were given Federal recognition. And from 1935 to 1937, all the Oklahoma tribes who had their governments dissolved upon admission of Oklahoma to Statehood allowed to reenter the Federal relationship under the Oklahoma Indian Welfare Act.

I recognize the members of this committee will have to discuss Menominee Restoration Act with the rest of Congress. I thought the most helpful think that I could do at the present time would be to provide you with this information that the Menominee restoration bill is far from being a precedent. It simply falls into the normal historical pattern of the relationship of the Federal Government to the various tribes.

I think that the Menominee termination has been on the minds of the Indian people ever since the termination days of 1954. I do not know of a tribe in the country that would not support immediate restoration of the Menominees and, in effect, ask you to amend the current legislation which provides for a 2-year extension. I think that it is a desire of Indian people every place to get on with the rebuilding of the Menominee without having this 2-year delay.

The final thing that I would like to say—we have had considerable dissension and turmoil in Indian affairs this year. We have had, at times, Indian people taking up guns in an effort to raise issues. I think a lot of us have worked in this field a number of years, and we have regarded the Menominee issue as the single greatest issue in Indian affairs, and that we are all unanimously in very strong support of the Menominees.

It seems to me what Indian people have been told over the last several years is that there are channels to go through and there are laws that simply must be followed. I think the Menominee people have demonstrated willingness to go through the channels to secure the proper ways for bringing about change.

I think, in addition to passing laws, Congress has the responsibility to see that justice is done. I think this is the primary motivating force behind what is going on in Indian affairs today. So I hope the members of the committee will look upon the Menominee bill as the first really concrete proof to the American Indians that the American system works; it is not simply a case of amending laws. It is a case of undoing the injustices of the past and doing the justices of today.

I would like to close with a quote from Antoine Waupochick of the Menominee Advisory Committee, who over a decade ago attempted to convince another Congress that the Menominee termination was unwise. Mr. Waupochick says:

> History records that the Menominees have been loyal to this government and have stood by their bargains when they relinquished land to the United States. We think that your actions should be governed by a desire to see that history will record that Congress was loyal to the Menominee people.

I think that if you can live up to what Mr. Waupochick said many years ago and pass this legislation for immediate repeal, of Menominee termination, this would be one of the greatest Congresses the Indians have had to deal with.

I thank you for letting me appear, and I will answer any questions that you may have.

Mr. MEEDS. Thank you very much, Mr. Deloria.

I would like to explore some rather philosophical questions with you, because I know you are probably closer to the Indian movement in the United States than any other single individual. You have documented the hopes and aspirations of Indian people in your books. My recollection is that you dedicated an entire chapter of your book "Custer Died for Your Sins" to the Menominee problem.

Drawing on your experience, not only with that specific problem, but other problems with the Indian people and the whole concept and philosophy behind the termination movement—would it be that the fear of termination and a failure to effectively repudiate that termination concept is one of the major deterrents to the Indians moving forward in the progressive posture that President Nixon is talking about?

Mr. DELORIA. I think that the fear of termination has become almost psychopathic among Indian people, because a number of tribes that could have tremendous developments—you ask them why they do not want certain developments, and they say, well, we do not want to build something else up that is going to be taken away in several years by some type of termination legislation.

In my experience, also, the termination policy provides people in the administrative arm of government with a weapon to hold over the heads of the tribes, when they disagree with the policy that the tribe wants to do. If you go to your district, Congressman, the Lummis were able to create an aquaculture primarily because they stood up to various Federal agencies and made their wishes known.

If the termination policy continues and people from government agencies can come in and say, we do not like this development, and if you try to do it, we will recommend your for termination.

I think the last 20 years, the termination has been the major stumblingblock in Indian progress.

Mr. MEEDS. The reason I asked the question was my recollection when I first came on this subcommittee in 1966—I think that Secretary Udall was then Secretary of Interior—that the Department came forward with a proposal called the Omnibus Indian Act, which had many good features, it seemed to me.

However, when this legislation was floated in Indian country, so to speak, it was almost unanimously disapproved by Indian people. I heard time and again, the reason given was that this was just a forerunner to termination. The Indians said it gave too much authority to them and they did not want to take this authority, because they thought by taking authority they would be placing themselves in the position the Menominees were in some years ago by being progressive and forward and subject to termination.

In your opinion, did that have anything to do with the concepts that the Indians had about that legislation?

Mr. DELORIA. As I recall, Mr. Chairman, there was a provision in that bill that allowed the Department of Interior to mortgage tribal lands but not accept liability for any disasters that might incur after they programed money. And many Indian people saw that as a way to take money out of trust, which was the basic theory in terms of property rights that we have been fighting in termination.

So I think as long as that fear persists that somehow the land will be taken away, there is no sense, really, having all these appropriations or plans or policies. We are just simply facing the attitude that is too mistrustful, and there have been too many instances in the past where Indians have trusted the Federal Government and, I think, have been let down by them.

Mr. MEEDS. I am sure you are aware of the legislation in the Senate and the legislation that has been introduced in the House to repudiate House Concurrent Resolution 108, which was the termination resolution. In your opinion would it be more constructive to pass the Menominee Restoration Act?

In other words, would this more clearly indicate to the Indian people the sincerity of the U.S. Congress than a mere repudiation of H. Con. Res. 108?

Mr. DELORIA. I think with the passage of the Menominee Restoration Act that a great portion of the fear of termination will die down, because this will be a concrete act. The problem that we have had with House Concurrent Resolution 108, is that various administrations within the Bureau of Indian Affairs have used it really to their own benefit. Some of them will say it is still policy because it has not been repealed; others will say, it is only a resolution of the one Congress, and we are not going to enforce it.

So I think, whenever you are going to deal with a congressional resolution with regard to policy, this is more than a philosophical range and can be interpreted by administrators as they see fit. But the concreteness of Menominee restoration I think would speak louder than anything else ever could conceivably speak.

Mr. **Meeds.** In terms of the whole scope of problems which face the American Indian which can be dealt with legislatively, how would the Menominee Restoration Act stack up in the order of priorities that you would place on such legislation?

Mr. **Deloria.** I would place Menominee restoration first. There are a number of proposals, the Indian Trust Council authority. It seems like every Congress that we have a new education bill, and revolving loan bills, long-term leasing bills, all these other. But if you will notice, going back, there is always a consinerable mistrust or considerable opposition to other pieces of legislation primarily because of this termination, the fear of handing over of legislation. So if we can get the Menominee Restoration Act enacted, and we can lay that issue to rest.

I think the concern over treaty rights have been demonstrated by the Act this year. Part of that would be laid to rest, because the United States in effect would be re-affirming its commitments to the Menominees through the treaty. And I think unless the Menominee Restoration Act is passed, you are going to have a multitude of continuing litigation trying to have the courts define exactly what the status of the Menominee is.

As I see the 1968 case, the Supreme Court handed down, it really said the Menominees weren't terminated, but it didn't say what they were. I think you find as you look back in history, it happened to the Eastern Band Cherokees in North Carolina. It took considerable time to straighten that out, but I think the concreteness of repealing Menominee termination is going to alleviate a lot of objections and other legislation the committee would want to consider.

I would make this really the No. 1 priority for this Congress.

Mr. **Meeds.** In your opinion would some of the Presidential legislation, such as self-determination legislation, contract authority, block grants, and that type of thing, stand a better chance of acceptance in the Indian world with the passage of the Menominee Restoration Act?

Mr. **Deloria.** Well, I have not paid too much attention to that legislation, because I've tried to put the Menominee legislation first. I think the fact Ms. Deer, and Mrs. Wilber testified to the fact they wanted Federal trust relationship, and not domination. They really may be the viable alternative to all this other legislation the administration is proposing in terms of setting up new bureaucracies to deal with the trust administration.

I would look at the present state of Menominees as holding the real potential for development of Indian policy; in that they have come together and remained together as a community, and have fought against impossible odds, where a lot of other tribes have been subject to the Bureau of Indian Affairs, and haven't gone through the struggle to define themselves. And I think general unity you find when the Menominees is what other tribes have to achieve at this point.

So I think it's very important to have Menominees back in the Federal trust relationship, because they will be able to point out a lot of things that they have done that other tribes really haven't done.

Mr. MEEDS. Thank you very much.

The gentleman from Nevada?

Mr. TOWELL. Mr. Chairman. I don't have any questions at this time. I think the witness is exceedingly well informed and knows his subject completely. I appreciate you taking your time to come here today, and write up the testimony.

Mr. MEEDS. The gentleman from Alaska?

Mr. YOUNG. Mr. Chairman, I was interested in the witness's statement, primarily because you are well aware of we just had one of the largest settlements—land-wise, money-wise—in Alaska, and we are going through probably some of the problems that your tribe has gone through before. One of our big things, I know, was in the Alaskan natives is possibly losing some of the benefits before we are ready for them. And I see one of my strong lobbiest in the group, and he worked hard for us. I think that's the best thing that ever happened to our State.

And I hope that we possibly can rely on the expertise of the Menominee Tribe and the expertise hitting on some of the problems that will crop up. We've got a good group of people, and they are working hard.

Again, there is a certain amount of discharge in this jockeying the position that we have seen already; I just hope maybe we'll have to call upon you and your group to give us a little bit of advice.

Mr. DELORIA. I'm sure we'll be happy to do so.

Mr. MEEDS. Again, on behalf of the entire committee, I would like to thank you for the presentation of your testimony, and your appearance here.

Mr. DELORIA. Thank you. Mr. Chairman.

I would just like to make one concluding statement which is a lot of us have advocated coming to Congress, presenting our case, rather than going on the activist trail, and going through all the trauma that has been on. We very badly need an action by Congress, such as the restoration of Menominee, to show the activists that you can work through the system.

Every day, I face a lot of the people in the American Indian Movement, and other movements, and say what have you been able to do going through the system. You haven't gotten anything done. You had your chance, and so we're taking over.

We have got to have this particular bill, and we have to have immediate restoration of Menominees. Now, we can go out and talk to people and show them that the thing does work. And without that, you are leaving the whole middle ground of Indian affairs virtually defenseless, because we can't point any place and say that it does work. You see, passing this bill will give us the ammunition to bring the Indian community together and present other legislation. I think that would be more helpful.

Mr. YOUNG. Mr. Chairman, along that line, when you referred to the Menominee and then I referred to the Alaskan natives. They did it through the system and did it strongly; probably the best organized group I've ever seen. It took us 10 years but it was done. I know it can be done, and I compliment your approach.

Mr. DELORIA. Unorganized, but I think the Menominees could take them if we got them back.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you.

Our next witness is Alan Kingston, who is Assistant Superintendent of Public Instruction for the State of Wisconsin, and also a member of the Menominee Indian Study Committee.

Mr. Kingston, please come forward and present your testimony. I see you have a statement here also of Mr. LaFave.

Are you presenting that?

Mr. KINGSTON. Yes, I am.

Mr. MEEDS. Are you asking for unanimous consent that we make it part of the record?

Mr. KINGSTON. Yes, I am.

Mr. MEEDS. Without objection, so ordered.

[The prepared statement of Mr. LaFave follows:]

STATEMENT OF SENATOR REUBEN LAFAVE, STATE OF WISCONSIN

Mr. Chairman and members of the committee, I had anticipated being able to personally attend all the federal hearings on restoration. Due to legislative committments, I am unable to do so. Therefore, I have requested that Alan Kingston as a member of the Menominee Indian Study Committee present my statement as chairman of that committee and that he, as Assistant State Superintendent of Public Instruction, make an additional statement and answer questions relating to his area of expertise.

First, I want to stress the fact that the Menominee Indian Study Committee has unanimously endorsed the concept of restoration. However, it is the feeling of the committee that the future of Menominee County should not be a matter of federal determination but rather a state-local one. Accordingly the Menominee Indian Study Committee has taken the position that H.R. 7421 should be amended to include Section 6(f) as follows:

> For the purpose of implementing subsection (e), the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the state or local government services required by the Menominee Indian tribe.

In addition, the references made to "Menominee Countyy" in Section 6(c) and (d) and Section 8 should be changed to "the territory constituting, on the effective date of the Act, the County of Menominee." If the language is not amended in H.R. 7421, it will be impossible to alter the present county structure.

For the information of the committee, I would like to report on the status of three state bills that have a bearing on restoration.

First, Senate Bill 131 which provides for the extension of the moratorium on the sale of Menominee Enterprises, Inc. stock until 1976. This bill has been approved by the Senate and has been concurred in by the Assembly.

Second is Substitute Amendment 1 to Assembly Bill 892 which provides for a state financed referendum whereby Menominee Enterprises, Inc. certificate holders will be able to vote on whether or not they wish to be restored to federal trusteeship. This bill is currently awaiting Assembly action.

Lastly is Senate Bill 123 relating to Wolf River preservation which bears indirectly on the restoration issue. Since 1966 the state has enacted Wolf River legislation with the two fold purpose of preserving the Wolf and providing economic assistance for Menominee Enterprises, Inc. For the last three years the state has paid the Enterprises $250,000 annually for camping and fishing privileges. The Menominee Indian Study Committee had endorsed continuing the lease for an additional four year period. The bill was unanimously adopted by the State Senate but has been amended by the State Assembly so that the lease will only cover 1973-1974 calendar year. Currently this bill has been messaged back to the Senate, but has not been acted upon.

I would like to place on record copies of these bills, amendments and fiscal notes.

STATEMENT OF ALAN KINGSTON, ASSISTANT SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF WISCONSIN

Mr. KINGSTON. Mr. Chairman, members of the committee, my name is Alan Kingston. I am an assistant State superintendent in the Department of Public Instruction in the State of Wisconsin, with a primary role in the area of school finance.

Prior to assuming my present position of assistant State superintendent in 1962, I served as the supervisor of Indian education for the State of Wisconsin for 8 years. During my tenure as Indian supervisor, I assumed the role of director of the Menominee Indian adult education program which was in operation from 1955 to termination in 1961. It has also been my responsibility to represent the Department of Public Instruction on the Menominee Indian study committee.

Senator LaFave, who is chairman of that committee, has requested that I appear before this body today and read the statement that he has prepared.

STATEMENT OF HON. STATE SENATOR REUBEN LaFAVE FROM THE STATE OF WISCONSIN AS PRESENTED BY ALAN KINGSTON

Mr. KINGSTON. Mr. Chairman and members of the committee, I had anticipated being able to personally attend all the Federal hearings on restoration. Due to legislative commitments, I was unable to do so. Therefore, I have requested that Alan Kingston, as a member of the Menominee Indian Study Committee, present my statement as chairman of that committee and that he, as assistant State superintendent of public instruction, make an additional statement and answer questions relating to his area of expertise.

First, I want to stress the fact that the Menominee Indian study committee has unanimously endorsed the concept of restoration. However, it is the feeling of the committee that the future of Menominee County should not be a matter of Federal determination but rather a State-local one.

Accordingly, the Menominee Indian study committee has taken the position that H.R. 7421 should be amended to include section 6(f) as follows:

> For the purpose of implementing subsection (c), the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the state or local government services required by the Menominee Indian tribe.

In addition, the references made to "Menominee County" in section 6 (c) and (d) and section 8 should be changed to: "the territory constituting, on the effective date of the Act, the County of Menominee." If the language is not amended in H.R. 7421, it will be impossible to alter the present county structure.

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The Menominee Indian study committee had endorsed continuing the lease for an additional 4-year period. The bill was unanimously adopted by the State Senate but has been amended by the State assembly so that the lease will only cover 1973–74 calendar year. Currently, this bill has been messaged back to the Senate, but has not been acted upon.

I would like to place on record copies of these bills, amendments and fiscal notes.

Mr. MEEDS. Without objection, they will be made a part of the record at this point.

[The information referred to follows:]

STATE OF WISCONSIN, ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1973 ASSEMBLY BILL 892

(May 31, 1973—Offered by Representative GROVER, by request of Menominee Indian Study Committee and Senator LaFave)

An Act of the statutes, relating to conducting a Menominee referendum and increasing an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. *Menominee referendum.* The secretary of state shall conduct a referendum at which the following question shall be submitted to eligible Menominee enterprises, inc., certificate holders: "Shall the federal government restore the Menominee to tribal status?".

SECTION 2. *Eligible certificate holders.* Every natural person who is a Menominee enterprises, inc., certificate holder and who is 18 years of age or older and who is not incompetent shall be eligible to vote in the referendum. The Menominee enterprises, inc., common stock and voting trust is ineligible to vote but the individual natural persons who are members of the trust may vote their individual shares held. Any trustee of Menominee enterprises, inc., who holds certificates of ownership only in a fiduciary capacity shall be ineligible to vote in the referendum. Menominee enterprises, inc., shall provide a certified list of eligible certificate holders and their addresses to the secretary of state within 10 days after the effective date of this act (1973).

SECTION 3. *Procedure.* The ballot used for the Menominee referendum shall be in the form of Ballot "D" under section 5.64 (2) of the statutes. The ballot shall be mailed by the secretary of state, by registered mail, return receipt signed by the addressee only, to all eligible certificate holders within 30 days after the effective date of this act (1973). Each ballot shall be accompanied by an envelope addressed to the secretary of state and bearing 1st class postage, or air mail postage if the address of an eligible certificate holder is located more than 2300 miles from Madison, Wisconsin. Ballots shall be completed and mailed to the secretary of state by the 15th day after they are mailed to eligible certificate holders. Returned ballots postmarked after the 15th day shall be void, and the ballot or a notice accompanying the ballot shall so state. The secretary of state shall tally all valid ballots and report the results of the referendum to the legisature as soon as practicabe thereafter.

SECTION 4. *Expenses.* All expenses related to the Menominee referendum, including any expenses incurred by Menominee enterprises, inc., shall be paid from the appropriation under section 20.575 (1) (a) of the statutes.

SECTION 5. *Appropriation increase.* The appropriation under section 20.575 (1) (a) of the statutes, as affected by the laws of 1973, to the secretary of state for general program operations is increased for 1973-74 by $7,500 for the purpose of conducting the Menominee referendum.

STATE OF WISCONSIN, ASSEMBLY AMENDMENT 1, TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1973 ASSEMBLY BILL 892

(June 6, 1973—Offered by Representatives GROVER and JACKAMONIS.)

Amend the substitute amendment as follows:

On page 2, lines 14 and 15, substitute "30th" for "15th".

STATE OF WISCONSIN, ASSEMBLY AMENDMENT 2, TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1973 ASSEMBLY BILL 892

(June 6, 1973—Offered by Representatives GROVER and JACKAMONIS.)

Amend the substitute amendment as follows:

On page 2, delete the material beginning with "The" in line 4 and ending with "(1973)" in line 9, and substitute "The ballot used for the Menominee referendum shall be similar to the form of Ballot "D" under section 5.64 (2) of the statutes. The ballot shall be mailed by the secretary of state, by certified mail (return receipt not requested), to all eligible certificate holders within 30 days after the effective date of this act (1973)".

STATE OF WISCONSIN, FISCAL NOTE TO 1973 ASSEMBLY BILL 892 (AS SHOWN BY A. SUB. 1)

Fiscal note: As shown by Assembly Substitute Amendment 1, 1973 Assembly Bill 892 appropriates to the secretary of state $7,500 in general purpose revenues for the purpose of defraying the cost of conducting a ballot, by registered mail, of the Menominee Indians on the question of restoration to tribal status.

Since the official tribal rolls were closed in 1954, the only way in which all Menominee of voting age can be reached today is through the mailing lists of Menominee Enterprises, Inc. (all Menominee Indians, and about 200 of their descendants since the tribal rolls were closed, are holders of M.E.I. stock certificates).

According to the M.E.I. mailing list, the referendum ballots would be mailed to about 2,000 M.E.I. stock certificate holders. The cost for mailing by "registered mail", in addition to regular postage, is 95¢ per letter *without* return receipt, and $1.10 *with* return receipt. Thus, the total cost of the mailing would be a minimum of $2,360 if all letters are mailed first class (some are required to be mailed airmail) and by registered mail as shown in the substitute amendment, plus $160 for return postage.

The cost for supplies (ballots, envelopes and return envelopes) would be about $150. The cost of addressing the envelopes and the postal forms for registered mail would be about $265 (assuming it is handled by 3 persons working 4 days each at $1.70 per hour, plus about $100 for costs incidental to tallying ballots).

Thus, total cost from general purpose revenue in fiscal 1973-74 would be about $2,935. There would be no costs in fiscal 1974-75.

* * * * * * *

A much cheaper mailing could be achieved by using "certified mail". For certified mail, the additional cost per letter is 30¢ without return receipt, and 45¢ per letter with return receipt. If the 2,000 ballots are mailed by certified mail without return receipt, the mailing cost would be $760 based on first class postage, and the total cost would be $1,335.

MENOMINEE INDIAN STUDY COMMITTEE.

STATE OF WISCONSIN, 1973 SENATE BILL 131

(January 26—Introduced by Senators La FAVE and ROSELEIP, by request of Menominee Indian Study Committee. Referred to Committee on Industry, Labor, Taxation and Banking)

An Act to amend 710.05 of the statutes, relating to the restriction on alienation of Menominee Indian tribe corporation securities.

ANALYSIS BY THE LEGISLATIVE REFERENCE BUREAU

Under present law any Menominee Indian tribal corporation, to which property may be transferred by the United States under section 8, P.L. 83-399 may provide for an absolute restraint on the sale of securities issued by such corporation for a period of time not to exceed 13 years.

This bill adds another 2 years to the length of time upon which absolute restraints on the sale of such securities may be placed but removes bonds from the list of affected securities.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

710.05 of the statutes is amended to read:

710.05 MENOMINEE INDIAN TRIBE CORPORATION SECURITIES, ALIENATION RESTRAINED. The articles, bylaws or regulations of any corporation or organization, incorporated or organized under the laws of this state by or at the direction of members of the Menominee Indian tribe, to which property may be transferred by the United States or any agency thereof, as provided by section 8, P.L. 83-399, as amended, may provide for the absolute restraint on alienation for a period not to exceed *15* years of any stocks, certificate of interest, voting trust certificate or other security, *but not including bonds*, issued by such corporation or organization. No such restraint shall prohibit the transfer by will or operation of law upon the death of the owner of any such security, but may provide for an option to the corporation upon such transfer. Any option in such corporation to purchase any of such securities from the holder thereof, which such corporation has but fails to exercise, shall be assigned by such corporation to the state of Wisconsin, and may be exercised by the investment board according to the terms thereof.

Mr. KINGSTON. Mr. Chairman, copies of the notes of the bills that are proposed and made part of the record have been given to this committee.

I am pleased to have the opportunity to appear before this committee to discuss the financial impact that the passage of H.R. 7421 could have on the Shawano school district.

Mr. Chairman, this is my testimony.

H.R. 7421 proposes the transfer of a portion of the lands and assets located in Menominee County in the name of the United States in trust for the Menominee tribe and provides financial assistance to local educational agencies which enroll Menominee students.

The removal of property from the Shawano school district tax base will result in the following changes: one, the Shawano school district will be eligible for the receipt of additional State aid; two, the Shawano school district will be eligible for the receipt of additional Federal aid.

To depict with some degree of accuracy the impact that this proposal would have had on the Shawano school district, I have computed the State and Federal aids on the basis of conditions prevailing during 1972-73.

I find that as a person working in finance—and I am digressing a moment—I find it very uncomfortable to predict the future where I haven't got a firm hand on what is happening at the moment. And so I have determined additional State aid that would have been forthcoming to the Shawano school district had this act been in effect during the 1972–73 year.

Wisconsin's equalization State aid program supplements the tax base in the low valuation districts by placing a guaranteed valuation back of each resident child in an attempt to equalize educational opportunities for all students in the State. This is a program in Wisconsin; it has been in effect since 1949 and this, of course, is the legislation of this proposal that would have an effect entirely upon this particular program.

Reducing the property valuation in a school district increases the State's share of funding.

H.R. 7421 would cause $28 million in property valuation in Menominee County to revert to Federal trusteeship and thus reduce the Shawano school district's valuation by $20 million. Now, this particular figure is an arbitrary figure that was given to me by the Department of Revenue, and you may dispute that. You may find that it is $19 million or $21 million, but for the purpose of this particular document I am using $20 million.

If H.R. 7421 had been enacted into law for the 1972–73 school year, it would have had the following effect on the general State aid program for the Shawano school district.

Now, I would like to go through this next part rather slowly because I think it is rather important.

All of the State—actually we have 51 State-supported programs in this Nation, and we think that Wisconsin is in need as I am sure the other States do; and so in looking at the Shawano school district for 1972–73, we found that they had a membership in that particular district of 3,329.

The full value of that Shawano school district for 1971, which is the valuation, of course, that is being used to compute the aid for 1972–73, was $139,943,200.

Mr. Meeds. Mr. Kingston——

Mr. Kingston. On page 3.

Mr. Meeds. Mr. Kingston, I wonder if it would be possible for you to just summarize these charts, and without objection, your statement plus the charts will be placed in the record.

Mr. Kingston. No objection whatsoever, thank you.

(The statement and charts referred to follow:)

Statement of Alan W. Kingston, Assistant Superintendent, Division of State Aids and School Finances

Mr. Chairman, Members of the Committee, my name is Alan W. Kingston. I am an Assistant State Superintendent in the Department of Public Instruction in the State of Wisconsin, with a primary role in the area of school finance.

Prior to assuming my present position of Assistant State Superintendent in 1962, I served as the Supervisor of Indian Education for the State of Wisconsin for eight years. During my tenure as Indian Supervisor, I assumed the role of Director of the Menominee Indian Adult Education Program which was in operation from 1955 to termination in 1961. It has also been my responsibility to represent the Department of Public Instruction on the Menominee Indian Study Committee.

I am pleased to have the opportunity to appear before this Committee to discuss the financial impact that the passage of H.R. 7421 could have on the Shawano School District.

H.R. 7421 proposes the transfer of a portion of the lands and assets located in Menominee County in the name of the United States in trust for the Menominee tribe and provides financial assistance to local educational agencies which enroll Menominee students.

The removal of property from the Shawano School District tax base will result in the following changes:

1. The Shawano School District will be eligible for the receipt of additional state aid.
2. The Shawano School District will be eligible for the receipt of additional federal aid.

To depict with some degree of accuracy the impact that H.R. 7421 would have had on the Shawano School District, I have computed the state and federal aids on the basis of conditions prevailing during 1972-73.

ADDITIONAL STATE AID

Wisconsin's equalization state aid program supplements the tax base in low valuation school districts by placing a guaranteed valuation back of each resident child in an attempt to equalize educational opportunities for all students in the state.

Reducing the property valuation in a school district increases the state's share of funding.

H.R. 7421 would cause $20,000,000 in property valuation in Menominee County to revert to federal trusteeship and thus reduce the Shawano School District's valuation by $20,000,000.

If H.R. 7421 had been enacted into law for the 1972-73 school year it would have had the following effect on the general state aid for the Shawano School District:

SHAWANO SCHOOL DISTRICT

General State aids for 1972–73

Membership	3, 329
Equalized valuation of district for 1971	$139, 943, 200
Net cost of operation	$2, 994, 260

State guarantee for 1972-73 = $52,000 per student membership.

Formula (Present Valuation)

$$\frac{\text{District valuation } \$139{,}943{,}200}{\text{District membership } 3{,}329} = \$42{,}038$$

$52,000 − $42,038 = $9,962

$$\frac{\$9{,}962}{\$52{,}000} = 19.16\% \text{ State's share}$$

$2,994,260
19.16

$573,700

Formula (Valuation as per H.R. 7421)

$$\frac{\text{District valuation } \$119{,}943{,}200}{\text{District membership } 3{,}329} = \$36{,}029$$

$52,000 − $36,029 = $15,971

$$\frac{\$15{,}971}{\$52{,}000} = 30.71\% \text{ State's share}$$

$2,994,260
30.71

$919,537

Increase in State Aids $345,837

ADDITIONAL FEDERAL AIDS

The return of portions of the lands and assets in Menominee County to trust status by the federal government causes the Shawano School District to be eligible for federal funds under the Impact Laws, Public Law 874 and Public Law 815. In addition, the district is eligible for federal funds under the terms of the Johnson-O'Malley Indian Education Contract.

Public Law 874

The entitlement for 3A students under Public Law 874 in Wisconsin for 1972–73 is $594.42.

The Shawano School District has 790 students residing in Menominee County during 1972–73 who would qualify as 3-A students (students residing on federal lands with parents working on federal properties).

790 students eligible for reimbursement under the terms of P.L. 874 does not represent 25% of the total enrollment in the Shawano School District, therefore the P.L. 874 entitlement is reduced to 90%.

790 students at $594.42 × 90% = $422,632.62

If H.R. 7421 had been enacted prior to 1972–73, the Shawano School District's eligibility for federal funds under P.L. 874 would have been $422,632.62. This federal funding would serve to reduce the local levy for school purposes in the Shawano School District.

Public Law 815

This Act provides for federal funding for capital assets and was instrumental in providing funds for buildings in the Shawano School District prior to termination.

The elementary school in Keshena was built with federal funds under Public Law 815 as well as additions to the elementary school located at Neopit and the Junior and Senior high schools in Shawano.

Federal funding under P.L. 815 is not available for public school building construction as of this time.

Johnson-O'Malley funds

Federal funds under the terms of the Johnson-O'Malley Contract presently in existence between the Bureau of Indian Affairs, Department of the Interior, and the Department of Public Instruction, State of Wisconsin, would be available to the Shawano School District if H.R. 7421 were enacted into law.

These funds would be available for special educational services for Indian students.

Basic support contracts with local school districts which were in effect in Wisconsin since 1947 provided payments for instruction, transportation and school lunches for Indian students with ¼ or more Indian blood who resided on federal lands. These payments were considered payments by the federal government in lieu of taxes.

These basic contracts are being phased out in Wisconsin as of 1973–74, and therefore the Shawano School District would qualify only for funds for special educational programs for Indian students.

Special programs operating in Wisconsin school districts for Indian students during 1972–73 include:

- Home-School Coordinators.
- Teacher Aides.
- Tutors.
- Special Education Teachers.
- Remedial Education.
- Special Transportation—School Activities.
- Study Centers (after school and evenings).
- Parental Cost Services.
- Indian Clubs.
- In-Service Training for Teachers.
- Curriculum Research and Development.
- Classes in:
  - Indian History.
  - Indian Literature.
  - Indian Language Instruction.
  - Indian Arts and Crafts.
  - Indian Dancing.

A review of the Shawano School District's financial status during 1972–73 with the effect of H.R. 7421 is depicted here with Property Valuations—Enrollments and budget materials.

SHAWANO SCHOOL DISTRICT—1972-73

	Present		H.R. 7421	
	1971	Percent of total	1971	Percent of total
I. Equalized valuation by municipality:				
C. Shawano	48,893,800	34.93	48,893,800	40.76
T. Belle Plaine	6,463,000	4.62	6,463,000	5.39
T. Herman	3,411,600	2.44	3,411,600	2.84
T. Navarino	132,600	.09	132,600	.11
T. Pella	781,500	.56	781,500	.65
T. Red Springs	3,593,600	2.57	3,593,600	3.00
T. Richmond	11,574,200	8.27	11,574,200	9.65
T. Seneca	13,200	.01	13,200	.01
T. Washington	2,748,800	1.96	2,748,800	2.29
T. Waukechon	5,647,600	4.04	5,647,600	4.71
T. Wescott	22,233,300	15.89	22,233,300	18.54
V. Gresham	2,436,200	1.74	2,436,200	2.03
T. Menominee	32,013,800	22.88	12,013,800	10.02
District Total	139,943,200	100.00	119,943,200	100.00
II. Enrollment 1972-73:				
School district	3,440		3,440	
Menominee county	790		790	
III. 1972-73 Budget Receipts:				
Federal aids:				
ESEA title I	135,437		135,437	
ESEA title II	5,606		5,606	
ESEA title III	9,258		92258	
NDEA title III	9,582		9,582	
Vocational education	15,281		15,281	
School lunch	98,538		98,538	
Public Law 874			422,632	
Total	273,702		696,334	
State Aids:				
General	573,700		919,537	
Transportation	89,208		89,208	
Handicapped	54,818		54,818	
Common school fund	5,407		5,407	
Driver education	8,490		8,490	
State tuition	24,467		24,467	
Total	756,090		1,101,927	
County aid:				
Elementary	31,500		31,500	
Transportation	4,100		4,100	
Other	12,000		12,000	
Total	47,600		47,600	
Local property tax levy	2,511,977		1,743,508	
Total receipts	3,589,369		3,589,369	
Expenditures:				
Administration	111,340		111,340	
Instruction	2,328,706		2,328,706	
Health	7,150		7,150	
Transportation	219,500		219,500	
Operation	224,900		224,900	
Maintenance	85,150		85,150	
Fixed charges	161,500		161,500	
Food services (gross)	195,000		195,000	
Principal payments	86,250		86,250	
Interest payments	65,143		65,143	
Cpaital outlay (2200)	67,929		67,929	
Capital outlay (2300)	34,500		34,500	
Total expenditures	3,587,068		3,587,068	
Recapitulation:				
Equalized valuation (1971):				
Shawano district	139,943,200		119,943,200	
Menominee county	32,013,800		12,013,800	
District enrollment, 1972-73	3,440		3,449	
Expenditures (1972-73)	3,587,068		3,587,068	
Receipts (1972-73):				
Federal Public Law 874			422,632	
State general aid	573,700		919,573	
Local levy:				
School district	2,511,977		1,743,508	
Menominee County	574,647		174,680	
Levy rate for school purposes	17.96		14.54	

In summary, we find the impact of this proposal if it had been in effect during 1972–73 would have caused the following changes:

1. Increased state aid by $345,837.
2. Increased federal aid by $422,632.
3. Reduced local levy by $768,468.
4. Reduced local levy rate from 17.95 to 14.54 mills for a reduction of 3.41 mills.

I'm sure there are many program changes that would take place if this proposal were implemented I have limited my remarks to the fiscal impact.

Mr. **Meeds**. If you will just summarize, okay?

Mr. **Kingston**. The transfer of——

Mr. **Meeds**. Incidentally, these are very valuable to the committee.

Mr. **Kingston**. The transfer of $20 million from the tax base in Shawano School District to the Federal trusteeship would reduce the tax base in that district and of course, because the State of Wisconsin measures the ability of the local district to fund education basically on property valuation, would mean reducing the property valuation per student from $42,000 to $36,000, thus increasing the State load from $573,000 to $919,000, or an increase of $345,000. That would have been the impact on the State of Wisconsin in this year had $20 million been taken off the tax roles of the Shawano School District.

Going quickly to the additional Federal aid, you have heard the impact laws discussed. I shall spend only a short time on one that is most important for us, and that is, in fact, Public Law 874. The number of students that were considered to be students living in Menominee County and attending the public schools as of this date is the 790 that you heard the gentleman talk about this morning—and that gentleman got those figures from me in the hotel this morning, when he called me. So the 790 is the figure that we had from the Shawano School District, and they would be classified as 3A students. And if we were to use the steep rate for 3A students of $594.42 for the State of Wisconsin for 1972–73, with one provision that we all have to take into account and that is the fact that that 790 students does not represent 25 percent of he full enrollment and therefore the entitlement is reduced from 100 to 90 percent and therefore my figures show that in 1972–73, under the impact law, they—the school district of Shawano would have received $422,632.62.

Quickly, as to Public Law 815, this is the impact law for buildings; in Wisconsin it has had no priority in the last few years and unless something is changed in this priority for funds, there will be no eligibility as far as buildings.

Quickly into Johnson-O'Malley funds, for many years Wisconsin negotiated contracts with the Bureau of Indian Affairs under what was known as the basic contract. We have phased out the basic contract in Wisconsin so that the Johnson-O'Malley funds available in Wisconsin at the moment, under the present contract agreement, is for special programs only. This would have no effect on the tax base as far ts the Shawano School District is concerned. It would have effect on it and it would be possible for us to have additional programs designed to help the new students. And I have listed on page 5 a number of programs that are in other school districts in the State of Wisconsin in this particular year under Johnson-O'Malley contracts, special programs.

Mr. Meeds. May I interrupt right there?

Mr. Kingston. Yes, sir.

Mr. Meeds. We had testimony this morning. I guess you heard it, that approximately $400,000 in——

Mr. Kingston. What?

Mr. Meeds. Approximately $400,000 additional would be coming in to district No. 8 as a result of Johnson-O'Malley funds becoming available.

Mr. Kingston. Well, I would find it difficult to believe unless there has been two standards in the school districts in Wisconsin. Reference to Indians under the Johnson-O'Malley contracts do not have that option any longer. We're phasing out the old basic contract, which would mean that in 1973–74 only 20 percent of the basic contracts are still in operation, so that, unless some new legislation took place and amended our contractual agreement in Wisconsin, within the Bureau of Indian Affairs and the State of Wisconsin, they would be subject to it and have only the special programs.

Mr. Meeds. Well, I am afraid I do not understand and perhaps you can enlighten me. My understanding is that the amount of money that the State of Wisconsin receives under the Johnson-O'Malley Act is based on the proportion of Indian children residing on or near reservations attending public schools.

Is that correct?

Mr. Kingston. That is correct.

Mr. Meeds. And if this then becomes a reservation and these Indian children continue to reside on it, you are adding 790 students to that roll, right?

Mr. Kingston. That is correct.

Mr. Meeds. And as a consequence, Bureau of Indian Affairs people testified that the Wisconsin share of Johnson-O'Malley funds would be increased by approximately $400,000. Now, I don't know what that has to do with contracts or anything else, but am I correct so far?

Mr. Kingston. They might increase the funding for Johnson-O'Malley funds in the State of Wisconsin to the tune of $400,000, but the kind of contract that has been in effect in Wisconsin since 1947 and all through these years, where the State paid—you had a contract with the local districts where they paid for the cost of instruction, hot lunches, and transportation, and the payment in lieu of taxes is no longer in effect. The only contract agreement they have in the State of Wisconsin with the Bureau of Indian Affairs, as of this date and for the future, would be for special educational programs for Indians.

Mr. Meeds. Well, if Shawano District No. 8 created $400,000 worth of Indian programs, would it not be entitled then to receive it?

Mr. Kingston. That would not change my testimony in that it would be for additional programs and not affect the tax base unit in the Shawano School District.

Mr. MEEDS. Well, that would affect the tax base of the school system with a $400,000 infusion of financial aid.

Mr. KINGSTON. No doubt about it, it would have a big effect upon the program offering to the Indian students.

Mr. MEEDS. Yes, go ahead.

Mr. KINGSTON. Now, if you will go over to page 6—I don't want to belabor this to long—but I do want to show that in 1972–73 under the "Receipts" section you will see that I have listed two columns, and you will find that Public Law 874 at the present time provides no funding, whereas under H.R. 7421 had it been in effect this year, they would have received $422,000. Then, in addition, you will note that I have increased the general aids from $573,000 in the left hand column, to $919,000 in the second column. The importance of this is quickly shown on page 7 because the local property tax levy for the Shawano School District on page 7 is $2,511,000, and with this additional State aid and with the additional Federal aid under the impact laws, they could have reduced that levy to $1,743,000 in this year. All the rest would be the same.

In the budget you will note that the expenditures have not changed.

Next, down at the bottom on page 7 you will find under "Recapitulation" on the bottom showing that the levy rate for school purposes in this year, for the operation of the Shawano School District was 17.95 mils. With this additional revenue from the State and Federal Government, that could have been reduced to 14.54 mils.

The summary, Mr. Chairman, is on the back. In summary, the State of Wisconsin would increase its general aid to the Shawano School District by $345,000. Federal aid under the Impact law would have actually increased by $422,000, so that this would have been money paid for reduced effort of the local district where Johnson-O'Malley would not do that. This reduced the local effort by the amount needed to receive and caused this reduction on the effort on the part of Shawano District from almost 18 mils to 14.5 mils.

My testimony, of course, is only related into the financial portion of this, and I am sure, as you have mentioned, that additional funds from Johnson-O'Malley or any other source could have had a tremendous effect on the programs, and I did not want to get into that here.

Mr. MEEDS. Does this local levy contemplate all property? It does, does it not?

Mr. KINGSTON. Yes, sir.

Mr. MEEDS. Well then, if all properties were not subject to levy, then that figure would be different, depending on what property was and what property was not.

Mr. KINGSTON. The analysis I have, Mr. Chairman, shows the difference between having the $20 million on the tax base on the left side, and taking it off from the right side.

Mr. MEEDS. All right.

Mr. KINGSTON. Basically, when you take the land off the tax roll, you affect the State support as well as the Federal support.

Mr. MEEDS. Now, in terms of the benefits to the school district;

that is, in costs to the taxpayer or in savings to the taxpayer, my figures indicate——

With your permission, sir, we have to make a quorum call and we will be in recess for a few minutes.

[A brief recess was taken.]

Mr. MEEDS. When we disbanded to answer that quorum call, I was about to ask a question which I will rephrase.

In terms of the advantage to the School District No. 8, will you agree with me that the following sums or approximately the following sums will become available, which are not now available to District 8, in the event this legislation passes?

I will preface this again by saying that under Public Law 874, the President in his budget has requested 100 percent funding for all A-children. Assuming that would pass, $468,000 under Impact Aid 874, $345,837 State aid and approximately $400,000 for Federal aid programs under Johnson-O'Malley would give us a total of $1,213,837.

Is that approximately the correct funds which would become available in District 8 which are not now available?

Mr. KINGSTON. I can attest only to the two, Mr. Chairman, if the Bureau of Indian Affairs is going to make $400,000 available under Johnson-O'Malley.

Mr. MEEDS. Approximately how much is being paid by the taxpayers of Menominee County to District 8 now?

Mr. KINGSTON. You will find that on page 6. My guess is it would be the percent of the total levy and it would be 24 or 23 percent of the total levy of $2.5 million, would be about $474,000, and that would be their levy at the present time.

Mr. MEEDS. Approximately $474,000 is the present levy?

Mr. KINGSTON. That is correct.

I am sorry, $574,000 on the bottom of page 7, $574,647.

Mr. MEEDS. $574,000.

Mr. KINGSTON. And if this bill were to pass with additional State aid and with additional Federal Aid under the impact laws, that would reduce that effort for the residue of that population, that $12 million that is left in there, to the tune of $174,000. That would be the levy then.

Mr. MEEDS. That would be what, sir?

Mr. KINGSTON. That would be the levy in Menominee County for those people who were not a part of the $20 million that was transferred in trusteeship.

Mr. MEEDS. You are talking about the non-Indian property only?

Mr. KINGSTON. That's right. I am talking about—not necessarily non-Indian. I am talking about the tax base that is left in Menominee County.

Mr. MEEDS. Do you have any way of telling what the levy would be on that basis?

Mr. KINGSTON. Yes, right below. It's $14.54 million is the levy. That would be for the operational part of that school district, just like 17.95 is now.

In addition to that you would have to add your levy and the middle rate there would be needed for your capital assets which runs about 2 mils.

So at the present time the effort or the impact on the Shawano School District runs about 20 mils, which by the way, Mr. Chairman, is exactly the State effort, 20 mils from the State of Wisconsin for school purposes at the present time.

Mr. MEEDS. If this Act were passed, it would be 14.54 on the remaining tax-paying property?

Mr. KINGSTON. Plus the 2 mils that would have to be for capital outlay and capital assets. In other words, relate the 14 into 17 and it is really a 20 mil rate. This rate I have here is for operation only. The 17.95 is the operational rate. That will be reduced to 14.54 for operations.

In both instances, the 2 mils would have to be added on that to pick up the amount that was——

Mr. MEEDS. Effective right now, it is 19.95.

Mr. KINGSTON. That's right.

Mr. MEEDS. And, effective with the passage of this Act, it would be 16.54 on the remaining taxpaying property of Menominee County?

Mr. KINGSTON. Well, I would like to rephrase that. If this bill had been in operation in 1972-73, this would have been true. I am not talking about next year. That is another whole story.

Mr. MEEDS. So, your statistics indicate that had this been in effect last year, the tax rate on the remaining taxable property in Menominee County would be some 3 mils less than it is for the——

Mr. KINGSTON. That would have been the tax rate for the whole district, the entire Shawano School District. You use the same rate for the entire district, so that I am saying you take the $20 million away and you end up with a 14.54 as a rate for operations for the entire Shawano School District without the $20 million.

You have to have about a 3½ mil reduction for the Shawano School District if this had been in effect this year.

Mr. MEEDS. For the entire school.

Mr. KINGSTON. Right.

Mr. MEEDS. If most of the property presently held by Menominee Enterprises, Inc., were taken off the tax rolls, what then would be the effective rate of tax for the remaining property in Menominee County?

Mr. KINGSTON. Well, Mr. Chairman, that is what I am trying to show.

Are you saying reduce the tax base in Menominee County by $20 million, what would it be then?

Mr. MEEDS. Yes.

Mr. KINGSTON. That is what I am showing you.

Mr. MEEDS. Well, I don't know exactly what that is, though.

Mr. KINGSTON. Well, maybe I can show you a better way that might be some help to you.

At the present time we look at the $574,000 which is a part of the cost of the school district in Shawano, that's Menominee County's part. Then you are going to reduce that down to $574,000. So that is really about a $400,000 reduction.

Right?

Mr. MEEDS. Right.

Mr. KINGSTON. Now, in place of that we are talking about these other two factors. We are going to reduce the impact on Menominee

County by $400,000, but in place of that we are going to add $245,000 plus $422,000, and so that really you are going to be adding about $365,000 more money to the Shawano School District which will reduce that by about 3 mils.

OK?

Mr. Towell. Mr. Chairman?

Mr. Meeds. Yes; the gentleman from Nevada.

Mr. Towell. Is the school district the same as the county?

Mr. Kingston. Not really, no. Menominee County lies entirely within the Shawano School District, but the Shawano School District includes area—if you will look on page 6 you will see all the municipalities that lie within the Shawano School District and their valuations as well as percent.

Mr. Towell. Just a point for clarification.

Thank you.

Mr. Meeds. Did the gentleman have any further questions?

Mr. Towell. No, I had nothing further.

Mr. Meeds. So all of your figures are premised on the basis that we are withdrawing $20 million worth of tax base from Menominee County.

Mr. Kingston. Correct. The variation you will find, Mr. Chairman, would be directly related to whether that was an accurate estimate of the amount that will go into trusteeship.

My point is that this kind of legislation not only affects Federal funding, it also affects the obligation of the State of Wisconsin on its share of the funding to that school district.

Mr. Meeds. And your figures are based also on the additional funds which come from impact aid and from State aid.

Mr. Kingston. That is correct. Those are the bills or the laws that are presently in effect. They are for 1972 and 1973; that is correct.

Mr. Meeds. And it does not calculate the additional benefits that would come from Johnson-O'Malley funds.

Mr. Kingston. That is correct.

Mr. Meeds. Very good.

And the Indian Education Act is not calculated in here either?

Mr. Kingston. No.

I am not trying to anticipate what that is going to mean for the future—just like, Mr. Chairman, I am not anticipating. I am talking about 790 students in Menominee County attending public school in the Shawano School District this year. That is 150 students less than we had last year because 150 students transferred from the public schools to the parochial schools. Next year there could be a transfer back. That is another whole story and there are all kinds of ifs.

The rate for Public Law 874 next year could be about $50 or $60 per student more. That is the normal increase, but these are all based on what is in effect this year.

OK?

Mr. Meeds. Very good.

Thank you very, very much, Mr. Kingston. Your testimony has been very helpful to the committee. We have gotten some things straightened out which we needed, and after listening to the Chairman ask questions, I am sure you understand why we have problems.

I think this probably would be a good place to break. We are going to have to go and make a vote, and so we are going to recess for 10 minutes.

[A recess was taken.]

Mr. MEEDS. The Subcommittee on Indian Affairs of the Full Committee on Interior and Insular Affairs will be in session for further hearings on the Menominee restoration bill, H.R. 7421.

Our next witness is Mr. William Giese, who is an attorney and a resident of Menominee County.

Mr. Giese, it's a pleasure to welcome you here to Washington, D.C. We have heard from you in Keshena, and we are delighted to have you here. You have another chance, and a longer notice to testify this time.

Please proceed as you desire, sir.

Mr. GIESE. Thank you, Mr. Chairman, and I appreciate that, and contrary to what Mr. Obey said this morning, I don't feel that when I admit that I am an attorney, that I have to defend my character. I am proud of it and I am sure you are too.

Mr. MEEDS. Indeed, I am.

Mr. GIESE. I wonder— what I will do is not read all this in the record, but just refer to the report that I have prepared, and I would ask at this time unanimous consent that it be inserted in the record.

Mr. MEEDS. Without objection, your prepared statement will be made a part of the record at this point.

[The prepared statement of Mr. Giese follows:]

STATEMENT OF WILLIAM R. GIESE, LEGAL COUNSEL, LAKE MOSHAWQUIT PROPERTY OWNERS ASSOCIATION, NEENAH, WIS.

Gentlemen. I am appearing before you today as Legal Counsel to the Lake Moshawquit Property Owners Association and also as a permanent resident of Lake Moshawquit, Menominee County, Wisconsin. I have personally owned a home on Lake Moshawquit since June, 1966. Consequently I have been present in the county since its very earliest development as to non-Menominees and preceeding by several years the larger home-site developments in Menominee County. In fact when I arrived on the scene there were comparatively few non-Menominees, very little traffic or other activity and the area was a virtual wilderness, quiet and serene.

Lake Moshawquit is a small lake approximately 300-325 acres in size lying in the southeast corner of Menominee County and adjacent to two other counties, Shawano and Oconto. The property surrounding Lake Moshawquit was platted in accordance with Wisconsin platting laws and developed by the Menominee Enterprises, Inc. Much of the land adjacent to the lake was too low or otherwise unsuitable for residential development and consequently was not platted. The platted areas were suitable for residential development and they were offered for sale directly by MEI. There was no commercial developer involved and sales were made directly by employees of MEI. All transfers of property by MEI were subject to restrictions incorporated into the conveyance instruments and on record in the Menominee County Courthouse. The restrictions prohibited the use of the property for any commercial enterprise and restricted the use to residential purposes only. The restrictions were as stringent as any I have ever seen in Wisconsin on a platted area and were generally excellent being in the best interest of all those involved. These restrictions were an attempt to preserve the natural environment of the area and indirectly benefitting the property owner. This progressive planning in the development of the residential sites on Lake Moshawquit was certainly an enducement to purchase property on this beautiful, clear-water lake. MEI invited the investment of non-Menominees in the real property surrounding

Lake Moshawquit by ads in newspapers and general circulation in Wisconsin and by brochures such as those that I am presenting to the Committee today as exhibits. The sales offices were MEI offices in both Neopit and Keshena, Wisconsin. In addition to the development of Lake Moshawquit at the same time MEI was also offering to the general public property on Round Lake and La Motte Lake both of which are smaller than Lake Moshawquit but located nearby.

As a result of the land promotion by MEI between the years 1965 and the present approximately 83 separate parcels of land were acquired mostly by non-Menominees on Lake Moshawquit. The interest which was acquired by these people was in various legal forms and at various times, which I shall describe later in detail. At the present time there are approximately 80 homes constructed on Lake Moshawquit. It should be pointed out that most of the residential buildings that have been constructed are of a permanent, year-round residency nature and not just summer "cottages." Most of the people have invested a substantial part of their net estate in these properties and if one uses a conservative $15,000.00 value for each the total value would be $1,240,000.00 This would be a low figure as the values of the homes range from approximately $15,000.00 to an investment of possibly $60,000.00. At the present time there are 11 families who have established their permanent residence on the lake and which would total approximately 45 people. There are approximately 20 children who attend schools in Shawano Joint School District #8 from the lake. For a number of the property owners on Lake Moshawquit and also on some of the other lakes the investment represents their life savings. Many of these people made these investments contemplating retirement in this beautiful north woods area.

Reference was made previously to homesite developments on Round and La Motte Lakes by Menominee Enterprises, Inc. which occurred simultaneously with the development of Lake Moshawquit. Consequently, although I do not directly represent those people, I would like to give further information regarding the development of those lakes. This information was furnished to me at my request by Mr. Blyth, a permanent resident on La Motte Lake and active in the Lake Property Association of La Motte Lake. Round Lake presently has eight homes constructed and two permanent family residences. Several other lots were sold by MEI and are presently unoccupied. There are no children attending school from Round Lake. On La Motte Lake at the present time there are 40 constructed homes and 5 families for a total of 24 persons as permanent residents on the lake. There are approximately 10 children attending local schools from La Motte Lake. The homes on these lakes are also mostly of a permanent, year around use construction and not just cottages.

I want to stress to the Committee that those of us who purchased property on Round, La Motte, and Moshawquit Lakes did so at the direct invitation of Menominee Enterprises, Inc. Most of us acquired this property early in the development of Menominee County and did so in good faith from the duly elected representatives of MEI. There is no commercial outside developer involved and most of the sales people were Menominees employed by MEI. The atmosphere at the time of purchase was most friendly and cordial with both parties believing the acquisition was to their mutual advantage. The Menominees generally seemed very enthusiastic about their new freedom from government control and looked upon the disposition of a limited amount of their property as being a great economic advantage. It would help them sustain their county by increasing the tax base and assist them individually in earning their economic livelihood. This would result from increased sales by Menominee businesses and employment resulting from increased home construction. The property owners on the initial three lake development came mostly from the Green Bay and Fox Valley areas and were most enthused about acquiring a lake home only 40 or 50 miles distant. The policy of the federal government, at the time of land acquisitions from MEI on Round, La Motte and Moshawquit Lakes, as declared in House Concurrent Resolution 108 of the 83rd Congress in August of 1953 was one of termination of the Indian reservations in the United States. It was in this harmonious setting and with this background that non-Menominees came to Menominee County and acquired an interest.

At this point I would like to take the opportunity to discuss the legal instruments by which property interests were acquired from MEI and to present exhibits of the certified documents. In the beginning there were available two MEI prepared instruments entitled "A Lease of Land" and "A Trust Agrement." The so-called Lease of Land Agreement was in fact a 40-year installment purchase and legally a Land Contract which provided at paragraph ten that after 40 years the lesee would acquire title by Warranty Deed. An example of this type of lease is being presented which involved MEI and Mr. Raymond Lodholz which was recorded in the Office of the Register of Deeds in Menominee County on March 23, 1965 and was dated November 6, 1964. Some variations were made at a later time in these Lease of Land Forms but basically they remain the same in providing for purchase of the property. An example of the later lease is the one offered as an exhibit between Robert Rector and MEI recorded on January 17, 1966, in the Office of the Register of Deeds of Menominee County and dated November 22, 1965.

Another form of agreement available initially was a Trust Agreement. This Trust Agreement was used in conjunction with the aforesaid Lease Agreement where the lesee desired to pay the 40-year rental or in reality, purchase price, in full. An example of this type of Trust Agreement is presented as an exhibit by a certified copy recorded in the Office of the Register of Deeds of Menominee County, Wisconsin on March 23, 1965 between Raymond Lodholz, lesee, MEI lessor, and Carl Wilke of the Shawano National Bank of Shawano County as trustee and dated November 6, 1964. It should be noted that paragraphs one and two of the exhibit acknowledge payment of the purchase price of the property in full and conveyance in accordance with paragraph ten of the Lease Agreement. This meant that a holder of the Trust Agreement with MEI would after 40 years receive title of the property by Warranty Deed. It should be further noted that under the terms of the Lease Agreement, which would include a holder of a Trust Agreement as well, the power to mortgage the property was given at paragraph five thereof. Other legal incidents of ownership or acquisition of ownership were present in both the Lease and Trust Agreements.

Apparently, the previously referred to leases and trust agreements proved to have some difficulty in merchantability. People were reluctant to purchase outright from a holder of a Trust Agreement and on an installment basis from the lesee under a Lease Agreement. Furthermore, difficulty in obtaining financing for the construction of a home from banks and other lending institutions was often caused by these Agreements. A Land Contract for an installment purchase and a Warranty Deed for an outright purchase is the conventional form of conveyance in Wisconsin. Consequently, at a later date, MEI agreed to convey the property outright by Warranty Deed to the holders of the Trust Agreement. An example of this type of Warranty Deed is offered as an exhibit between Menominee Enterprises, Inc., grantor, and Robert H. Rector, grantee, as recorded in the Office of the Register of Deeds, Menominee County, Wisconsin, on May 10, 1972, in Volume 392 and dated May 10, 1972. Apparently Mr. Rector at that time elected to pay the purchase price in full, in accordance with his lease previously referred to, and in return received the Warranty Deed. This is substantiated by the Agreement to Cancel Lease and Purchase Real Estate offered as an exhibit between MEI and Robert Rector, dated April 28, 1972 and recorded in the Office of the Register of Deeds for Menominee County, Wisconsin as Document #7142 on May 10, 1972. The Lease or Installment Purchase Agreements were later changed to Land Contracts for merchantability reasons. A Land Contract between MEI and Howard B. Lancelle dated July 19, 1968, and recorded in the Office of the Register of Deeds of Menominee County, Wisconsin, as Document #3223 on February 23, 1970, is offered as an exhibit of this form of agreement. This Land Contract carries the standard Wisconsin Land Contract provision that when payment of the purchase price is made in full conveyance shall be made by Warranty Deed.

The foregoing background information was presented so that you would have a better understanding of what motivated the Lake Moshawquit Property Owners Association to have representation here today on this hearing on H.R. 7421 regarding return of reservation status to the Menominee Indians. It should be made perfectly clear that on the question of whether the federal government should restore the Menominee to tribal status the association takes no position at this time either for or against. However, as an association and individual real property owners of Menominee County, we are concerned about the impact effects of the adoption of H.R. 7421. Specifically, we are concerned about the impact any Restoration Act would have on our County government, both politically and economically. We want to make you aware of the fact that in returning to reservation status that new events have occurred since termination of reservation status in 1959 which much be given consideration in the passage of any new legislation on the subject. We are aware that most of the impact of restoration problems must be solved on a state level with state legislation. However it is our position that to avoid further error and possibly catastrophe in this matter any federal legislation should be dove-tailed with any necessary action of the State of Wisconsin Legislature. We feel very strongly that in order to solve the problems of Menominee County and its people the impact problems of restoration should be fully disposed of prior to or simultaneous with restoration. I believe that evidence of this fact has been clearly demonstrated by the several hearings held already this year on the restoration question on both federal and state legislative committees.

At this point I would like to present some comments on the particular provisions of 93rd H.R. 7421. It is not my intent to comment at length on the first six sections of the Act which pertain principally to the Menominee Tribe of Wisconsin. However, as a lawyer, I cannot help but make a few comments regarding these sections which resulted from my analysis of the entire Act.

It would appear that Sec. 3 (c) lines 20 to 23, page 2, could be clarified. This provision provides that nothing contained in the Act shall alter any property rights, contractual rights, etc., unless specifically provided for in the Act. I presume this section refers to property rights etc. existing at the time of the passage of the Act but this could be made more definite. Further clarity in the second sentence of Sec. 3 (c) could result if it were created as a separate subsection and made definite as to application to all persons.

Sec. 6 (a) is as I understand it an attempt to provide an orderly period of transition from the time of enactment of the Act until such time as the tribal owned real property is removed from the tax rolls. We approve of this provision as a compromise but would prefer a position authorizing the Wisconsin legislature to restructure the County government. Our concern is that without some restructuring of the local governmental units serious problems could result from a voting non-taxpaying Menominee majority governing, assessing and taxing the non-voting, non-Menominee real property owners. Although I am confident that the vested title rights of the non-Menominee real property owners are not in jeopardy by the passage of the Act, concern must be shown for other methods which could have the net effect of depriving us of our property. For truly, even though one may have a valid legal title to his property unless he is able to find a ready market for its disposal it is without value. It is interesting to note that in the Bureau of Indian Affairs Report of this year entitled "The General Economic Situation of the Menominee Indian Tribe of Wisconsin" there is constant citing of the fear of oppressive, exorbitant real property taxes as it affects MEI in Menominee County under the Termination Act. This same report also criticizes the lack of Menominee Indian representation on the nine-member Shawano Joint School District #8 School Board. (See page 32, B.I.A. Report).

Sec. 7 of the Act should be amended in several ways. It should be pointed out that the Leases, Trust Agreements and Deeds on Lake Moshawquit from MEI to the original owner usually carried the following or similar paragraph;

> Lessor grants to --------(Name)-------- and his immediate family a personal and non-assignable right to hunt and fish in Menominee County, subject to the state and local laws and regulations, without cost; such rights being an integral part of this Lease-hold interest.

This Sec. 7 under the Act should be re-written at (3) to provide that any rules and regulations adopted pursuant thereto shall apply equally to tribal members and non-Menominee real property owners. This would protect and effectuate the contractual hunting and fishing rights granted as aforesaid to non-Menominee property owners.

Sec. 7 (3) at page 8, line 18 should be amended to delete the following; "And the state shall stock these lakes in the same manner as other lakes regulated by the state of Wisconsin" We do not feel that it is necessary to require that the state of Wisconsin shall stock the lakes mentioned in Sec. 7 and particularly Moshawquit Lake. This requirement could result in the demand from the general public in the state of Wisconsin for use of these lakes for fishing purposes. We have attempted to avoid this result in the past and would like to in the future by providing association funds for fish stocking purposes provided sound fish management policies are followed.

At Sec. 6 (C) (D) and Sec. 8 the words "Menominee County" should be deleted and substituted therefore should be the words "The territory constituting, on the effective date of this Act, the County of Menominee." These suggested changes are made to guarantee that there will be state government flexibility in determining the type of governmental organization needed to provide the services for the reservation area. A further sub-section to Sec. 6 should be added authorizing the state of Wisconsin to establish such local government as will best provide services for *all* people of the area presently constituting Menominee County. In this regard Dr. H. Rupert Theobald of the State of Wisconsin Legislative Reference Bureau proposed, in a letter dated May 30, 1973. to Attorney Franklin Ducheneaux, Counsel to the Subcommittee on Indian Affairs, that a new Sec. 6 (F) be created to read as follows:

> Section 6 (f) 'For the purpose of implementing subsection (3), the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as will best provide the State or local government services required by the Menominee Indian tribe.

We are in agreement with the above proposed Amendment provided the words *Menominee Indian tribe* be deleted and substituted therefor would be the words *people in the territory constituting, on the effective date of this Act, the County of Menominee.*

In closing I wish to remind you again that indeed many changes have occurred in the composition of the home owners and population of Menominee County since termination. Earlier, I pointed out to you the amount of change in the three lakes sold directly by MEI. In addition to these non-Menominee property owners, and at a later date, MEI in partnership with a commercial developer developed what is known as the Legend Lake Area. This development resulted in approximately 2,350 lots being sold to individual owners mostly non-Menominee. On that lake there are presently 262 homes and approximately 40 families that are permanent residents. There are approximately 100 people living permanently on Legend Lake. The total number of individual land owners having acquired property since termination in Menominee County would be approximately 2,300. This figure is only the number of individual properties that have been sold and eventually will result in a much higher population figure. These statistics take on even more importance when it is considered that the total population of Menominee County in 1970 by the Census count was 2,607 including 2,306 Menominees and 301 non-Menominees. (1973 B.I.A. Report, page 18). All of us purchased our property in good faith expecting to be treated fairly and equally regarding governmental services and their financing. We request that you carefully consider the impact of any federal legislation on the many new people who have acquired a property interest in Menominee County since termination.

Mr. Giese. Now, I do have other exhibits that are singular in nature, that we discussed at the Keshena meeting; namely the forms of lease agreement and trust agreement, warranty deeds, etc. that we used by the Menominee Enterprises in transferring property interests.

I would like—those are all certified copies by the Register of Deeds of Menominee County; in other words, instruments that were actually used in real estate transactions up there, as they are certified.

Mr. Meeds. Very well.

Would you like to insert them all at one time, or would you rather insert them as you refer to them?

Mr. GIESE. I would like to insert them at one time at the end of my reference to those particular documents, if I may.

Mr. MEEDS. Very good.

Without objection, they'll be made a part of the record at that point.

Mr. GIESE. I would also like to apologize to the committee for the fact that they are not too legible, but they were the best that could be obtained from the courthouse, because they were taken off of what the courthouse has, which are copies. And they do not recopy in the best way, but they are legible.

I do have some pictures that I understand the rules of the committee do not allow to be entered as exhibits, but they can be presented for file purposes.

Mr. MEEDS. Indeed, they can, and we would like to have them.

Mr. GIESE. I would like to take this opportunity, if I could at this time, to give the committee these pictures for their use as they may.

Mr. MEEDS. Are the descriptions on them, Mr. Giese, as to what they portray?

Mr. GIESE. I wonder if I could have them back a minute. I did not personally prepare these. I could make a few references to them.

Basically, they are homes that have been constructed on lakes in Menominee County by principally non-Menominees, and principally on the lake that I am here representing today, the property owners, Lake Moshawquit. There are also pictures of some lake area businesses, such as the Coop Shopping Center and drive-in grocery stores, etc., which I believe mostly are Menominee operated. And there are some homes that are owned by Menominees, HUD homes; and also pictures of the Destination Center at Keshena.

Mr. MEEDS. Without objection, they will be made a part of the file.

Mr. GIESE. Thank you.

[The document referred to can be found in the file of the subcommittee:]

Mr. MEEDS. Please proceed as you desire, sir, with your testimony.

STATEMENT OF WILLIAM R. GIESE, LEGAL COUNSEL, LAKE MOSHAWQUIT PROPERTY OWNERS ASSOCIATION

Mr. GIESE. I am appearing here today as Counsel for Moshawquit Property Owners Association and as I indicate, there are approximately 80 of us on Lake Moshawquit.

What I would like to do in summarizing the background somewhat is particularly make reference to the fact that Lake Moshawquit, La Motte Lake, and Round Lake property owners purchased directly from MEI, directly from the Menominee Enterprises, Inc. Our intruments were directly from that corporation. Our dealings were principally with that corporation.

We dealt principally with what I assumed, and have since known to be principally people of Menominee blood that were employed by Menominee Enterprises, that sold us this property.

We were solicited to come up there by Menominee Enterprises, Inc. by commercial brochures, and advertisements.

I would like to offer one of those in evidence, if I may, today here at this hearing for the committee's purposes. This is a brochure that has been prepared or was prepared in 1968 by Menominee Enterprises, Inc. as a promotion brochure.

Now, we in these three lakes were solicited, as I said, by Menominee Enterprises——

Mr. MEEDS. Pardon me, just one moment. Without objection, this brochure will be made part of the file at this point.

[The document referred to can be found in the file of the subcommittee.]

Mr. GIESE. We were solicited to come up there by the representatives of Menominee Enterprises, Inc. There was no commercial developers involved.

These are very small lakes. Lake Moshawquit is about 325 acres in size, and it had very orderly development by Menominee Enterprises. They only developed a limited number of lots on the lake, as the other ones were very low situation, and were unsuitable for adequate development.

There were very stringent requirements placed upon the construction of the homes; the approval of Menominee Enterprises, the building plans, restrictions as to septic system placement, size of lots, as stringent as any restriction I've ever seen as a practicing attorney, and representing several financial institutions and lending practices. I have never seen any abstract contain any more restrictive.

And this was an inducement, certainly, for all of us to come up there.

Now, this particular situation, as I say, pertains mostly to these three lakes, and I am most familiar with Moshawquit. And I set out in detail some of the facts regarding Moshawquit, which you can make reference to my report for further information. The same is true with both Round and La Motte Lakes. These lakes, the development of them commenced approximately in about 1965. The first of us us were up there.

Now, the larger lake development which came at a much later date, I believe the first authorization for it, from what I can gather from records, was about 1968. And it didn't really get into full swing until around 1969 or so, and really reached its highest point, I believe, in about 1970 and 1971. And this was the Legend Lake development.

This was a development by commercial peoples and a commercial developer in partnership with the Menominee Enterprises.

Can I continue or——

Mr. MEEDS. You can proceed for about 5 minutes.

Mr. GIESE. Now, the properties on this lake are basically permanent, year-around homes on Lake Moshawquit. They are homes that are valued from about 50,000 to $60,000. They are not summer homes or cottages, they are permanent homes.

We felt that when we purchased up there in this early development stage directly from MEI, that it would help the Menominees in sustaining their county by increasing a tax base, and assist them individually in earning their economic livelihood; this would result from increased sales by Menominee businesses and employment resulting from increased home construction.

The property owners were initially on these three lakes; every lot that was sold on them, and I want to stress that not all of the properties surrounding the lake was developed only a limited area, again, because of the unsuitability of certain areas.

The people who have purchased on these three lakes were principally from the Green Bay and Fox River Valley and we purchased a distance of about 40 to 50 miles from our home.

Sold rapidly, the lots did—the people on these areas, and that's for the most part where we come from originally. This was an inducement to be up there.

And I want to point out, as the chairman is well aware of, it was the policy then as declared by Congress—it still is the policy of the U.S. Government as declared by Congress—to end reservation status for the Indians in this country. And with that background in mind, we felt secure in purchasing property up there. We felt it was of mutual advantage. We were getting beautiful property within a driving distance of our homes and our businesses, and we could help, as the Menominees suggested, in expanding their tax base and providing jobs.

At this point, I would like to take a few minutes to discuss the legal instruments by which we acquired these property interests in Menominee County. These instruments were in various forms. One of the forms was entitled "lease of land."

Now, this in fact was not a "lease in land." In was in fact and would have so been interpreted, I am sure by the courts of the State of Wisconsin, as a land contract. The initial one, as I will introduce here, between Raymond and Lucille Lodholz of Menominee Enterprises states that after 40 years the option—the lessee shall have the option to purchase the property with the rental payments that had to be made applicable to the purchase price, and being in consideration of the purchase price.

And further, that this option was exercised immediately on the execution of this lease. It was a purchase agreement immediately. At a later date, there were some modifications made in some of the forms, but basically the lease form remained the same.

It was not a lease. You could call it all you want a lease. You had the right to mortgage the property. You had the right to give it to your heirs. You had all the other instruments of ownership, as long as you kept those payments up; and after 40 years, in this later lease, you had the option of purchasing the property again by using the rental payments, that were applicable to the purchase price. And the purchase price was then paid in full, and you would get a warranty deed, as both these leases provided from the Enterprises.

I have an instrument here between Mr. Robert Rector and Menominee Enterprises, Inc., which so indicates. And the appropriate paragraphs are indicated in my prepared text.

Mr. **Meeds.** Maybe that would be a good place to stop for just a while, while we go over and make a vote again. So we will be in recess for 10 minutes.

[A brief recess was taken.]

Mr. **Meeds.** The hearings will be continued.

Before we start, Mr. Giese, let me apologize for the committee having to get up and leave for these votes. Of course, that's what we're here for among other things, but I'll try to keep my questioning short. I'm sure everybody else will, to be sure we get your testimony in the record in case we have to go vote again, which we probably will.

Please proceed, sir.

Mr. **Giese.** I can understand, Mr. Chairman.

Now, I made reference previously to the lease agreements that were entered into Menominee County on Lake Moshawquit between MEI and prospective purchasers.

Now, in the formal lease agreement where the purchase is to be applicable immediately, the purchase price, the option to purchase was immediately exercised, such as in the Lodholz's lease, with that was executed, a trust agreement. And also a trust agreement was also executed between MEI, and any prospective purchaser who wanted to pay the purchase price of the property in full, at the time they purchased, rather than go into a lease agreement.

Now, that trust agreement provided basically that after 40 years a warranty deed again would be given for the property.

And I have an example, an exhibit, that I am introducing between Raymond Lodholz and Menominee Enterprises in that regard.

Mr. **Meeds.** Without objection, it will be made a part of the record at this point.

[The information referred to follows:]

DO NOT DETACH

STATE OF WISCONSIN }
MENOMINEE COUNTY } ss.

OFFICE OF REGISTER OF DEEDS

I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded ~~(filed)~~ in the office of the Register of Deeds in and for said County on the 23 day of March 19 65 at 1:20 o'clock P M., in Vol 4 of Records on page 165-167 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 22 day of June A. D., 19 73

Carol Frechette
Register of Deeds in and for Menominee County.

BEST COPY AVAILABLE

LEASE OF LAND — Individual and Corporate
DOCUMENT NO.

LEASE OF LAND

This Indenture made and entered into this 6th day of November, 19 6[illegible], between MENOMINEE ENTERPRISES, INC., a Wisconsin corporation, with its principal office and place of business at Neopit, Menominee County, Wisconsin, Lessor, party of the first part, and hereinafter referred to as Lessor, and Raymond & Lucille [illegible], of Outagamie County, State of Wisconsin, second party, hereinafter referred to as Lessee. (2915 N [illegible] Dr., Appleton)

WITNESSETH: Lessor, for and in consideration of the sum of $3075.00, in hand paid by Lessee, the receipt whereof is hereby acknowledged by Lessor, has granted, bargained, conveyed, demised and leased and by these presents does grant, bargain, convey, demise and lease to Lessee the following described land situated in Menominee County, to-wit:

Lot No. 1, recorded at Pages 8 and 9, Volume 2, Certified Surveys of Menominee County, as recorded with the Register of Deeds, Menominee County, Wisconsin.

Lessee has contemporaneously with the execution of this lease entered into a Trust Agreement with Lessor and Carl [illegible] c/o Shawano National Bank, Shawano, Wisconsin Trustee, hereinafter referred to as Trustee, pursuant to which Lessee has deposited with the Trustee $2715.00/ $360.00 having been paid Lessor as initial payment in full satisfaction of the obligation of [illegible] hereunder as well as the purchase price for the leased premises pursuant to the option granted in paragraph 10 hereof. Lessee shall not be required to pay or deposit any additional amount as rent or for purchase of the leased premises and at the time for exercise of Lessee's option to purchase, Lessor agrees to deliver to Lessee its warranty deed as provided in said paragraph 10. Reference is hereby made to said Trust Agreement the terms of which shall be applicable in determining the rights and obligations of Lessor and Lessee hereunder.

And the Lessor and Lessee in consideration of said leasing agree as follows:

1. The land herein leased is part and parcel of Lessor's "Menominee Forest Lakes Vacation Land Homes" development in Menominee County, Town of Menominee, Wisconsin per recorded plat thereof, and said land is to be used and occupied for the sole purpose of constructing and maintaining thereon a single family residence together with necessary outbuildings and appurtenances.

2. Lessee may not sell, assign or transfer this lease, and will not lease or sublet or sell the buildings and structures or appurtenances thereon or any part thereof except as herein expressly permitted, without first obtaining the written consent of the Lessor, which consent shall not be unreasonably withheld. It is understood and agreed that the requirements of this paragraph are intended to protect present or future lessees and owners within the "Menominee Forest Lakes Vacation Land Homes" development from unwanted or undesirable occupants. In the event of the death of Lessee during the term hereof Lessee's interest herein may be transferred without prior consent of Lessor to Lessee's surviving spouse or (then adult) child or grandchild of Lessee, subject, however, to all of the terms and conditions herein stated. In the event prior to the expiration of the term hereof, Lessee desires to sell his interest in this lease together with any buildings and improvements erected by Lessee, and Lessee's interest in the Trust Agreement referred to above, Lessor will, at Lessee's request, [illegible] and [illegible] and the Lessee's interest in said Trust Agreement appraised and will seek to find a buyer therefor and a successor lessee [illegible] at such appraised value, with payment of the net sales proceeds to be made to Lessee upon completion of any such sale.

3. Except as hereinafter provided, Lessee will pay, when due, any and all taxes and assessments, ordinary or extraordinary, that may be levied or assessed upon or against the leased premises or any structures or improvements thereon which may become a lien [illegible] with the taxes and assessments levied or assessed for the year 19 65. In event Lessee fails to pay any such taxes or assessments when due, or as [illegible] any unpaid charges or delinquent indebtedness or liens incurred by Lessee, Lessor shall have the right to pay the same and to recover the amount of any such advance from Lessee or the Trustee upon demand and until paid Lessor shall have a lien against the leased premises and all improvements located thereon. Lessor will at its expense construct a road providing access to the leased premises. Any assessments subsequently levied for additional road improvements shall be paid by the Lessee.

4. Lessee will make no other use of the above premises than herein specified. Lessee will not permit or maintain any nuisance on said premises or sell or suffer to be sold thereon any alcoholic, spirituous, or intoxicating liquors, or permit the use of said premises or buildings or structures located thereon for the purpose of conducting any trade, business, occupation, or profession or for any commercial purpose, whether legal or not. Lessee further covenants to comply with and obey all laws, ordinances and governmental regulations applicable to the use and occupancy of said premises.

5. Lessee shall have the right, without prior consent of Lessor, to mortgage or otherwise pledge his, her or their interest in the leased premises as well as all improvements located thereon subject to all of the terms and conditions hereof, and provided, that any such mortgage or other security instrument shall expressly provide that any default in the terms and conditions of this lease shall also constitute a default in such mortgage or other security instrument, and that every mortgagee or other holder of a security interest in Lessee's interest herein shall agree that in the event of default by Lessee thereon and prior to the commencement of any foreclosure or other similar proceedings it will give Lessor written notice thereof and Lessor shall have the option, exercisable within a period of ninety (90) days after receipt of such notice, to purchase and acquire such mortgage or other security interest by payment of the amount due thereon, in which event the same shall be duly assigned to Lessor. In the event Lessee's interest herein shall be foreclosed or otherwise subject to assignment by reason of enforcement of any mortgage or other security lien placed thereon by Lessee, then any such assignee shall be bound and subject to performance and compliance with all of the terms and conditions herein stated.

6. Lessee covenants not to commit waste upon the leased premises and to keep the same safe and in good condition, to maintain and keep all buildings and improvements located thereon in good repair, and that all liability arising out of failure so to do or arising in any manner out of the use and occupancy thereof by Lessee will be assumed by Lessee, and Lessee indemnifies Lessor against any and all claims of liability or loss or damage by reason thereof. Except for mortgages or other security liens permitted in accordance with paragraph 5 hereof, Lessee will not suffer the leased premises or any structure or improvement thereon during the term of this lease to become subject to any lien, charge, or encumbrance whatsoever, and will indemnify and keep indemnified the Lessor against all such charges, liens and encumbrances.

If requested by Lessor, Lessee will execute and deliver to Lessor before the commencement of any construction on the leased premises, a bond, in form satisfactory to Lessor, conditioned for the indemnity of Lessor against all mechanics and other liens (other than construction mortgages or similar liens) which may arise or be created in or about the erection of any building or buildings, outbuildings, and appurtenances, and providing that when such construction is completed the said premises shall be free from all such liens.

7. Lessor shall have the right of reasonable entry upon the premises herein leased for all lawful business purposes. Lessor further reserves a four (4) foot strip of land on said premises abutting lakes or streams parallel and adjacent to the shore line thereof for public passageway and easement purposes.

8. Detailed plans for any building or buildings and appurtenances thereto proposed to be constructed on the leased premises by Lessee shall be submitted to Lessor for approval with respect to location and standards of architecture, safety, and water, sewage and sanitary facilities. Lessor's right to approve such plans shall be reasonably exercised and, in so far as practicable, all standards adopted by Lessor shall be uniformly applied.

9. Lessor, with respect to the land herein leased, reserves the right to maintain and create good timber cover, good silviculture, and any trees to be removed shall be removed only by or with the consent of Lessor.

10. Lessee is hereby granted an option to purchase the leased premises at the end of forty (40) years from the date hereof, which option has been exercised by Lessee and accepted by Lessor and the consideration therefor deposited pursuant to the Trust Agreement above referred to. Said option shall be effective on November 6, 20 0[illegible] (except as provided in paragraph 20 hereof) and Lessor agrees at such time to convey the leased premises to Lessee by delivery to Lessee of its warranty deed, free and clear of all liens and encumbrances except the following: municipal and zoning ordinances, recorded easements and restrictions, rights of Lessee or any persons claiming under or through Lessee and acts of Lessee and his, her or their predecessors in interest, taxes and assessments levied or assessed during the term hereof, and such restrictions and covenants affecting the use and occupancy of the premises as are contained herein and which Lessor shall determine to continue in effect. Not less than thirty (30) days prior to the time of conveyance Lessor shall furnish to Lessee either, (a) a complete abstract of title covering the premises to be conveyed, extended to within ten (10) days of the date of delivery thereof, said abstract to show Lessor's title to be marketable and in the condition herein called for, or, (b) an owner's policy of title insurance in the amount of the purchase price, naming Lessee as the assured and which shall guarantee Lessor's title to be in the condition herein called for, subject to the standard conditions and exceptions contained in such policies issued by title companies in Wisconsin. A commitment by a title company, agreeing to issue such a title policy upon the recording of a warranty deed to Lessee, shall be a sufficient performance hereof.

11. (a) If any covenant on the Lessee's part herein contained shall not be performed or observed after thirty (30) days prior written notice thereof to Lessee, the lease herein granted shall cease and terminate and it shall be lawful for the Lessor to re-enter and repossess the leased premises and any structures or improvements located thereon.

(b) In the event Lessee shall at any time or times during the term hereof be under any law of the United States found or declared a bankrupt, or under the laws of any state be discharged from his, her or their debts as an insolvent debtor, or shall make a voluntary assignment of property for the benefit of creditors, or suffer a receiver to be appointed over such property, or if any interest in this lease be during such term taken and sold by execution under any judgment adverse to Lessee, or to which consent has been given, or if this lease, or any interest therein be assigned or transferred by operation of law except as herein permitted, then and in any such case it shall be considered [illegible] default hereunder and Lessor may take such action as provided in this paragraph for any other default by Lessee and without the giving of [illegible] or demand to Lessee; provided, that in any such event shall not affect Lessee's rights to [illegible] from the Trustee then [illegible] deemed to have accrued hereunder.

[illegible] TO MAKE A [illegible] AS OF DATE OF EXECUTION AND ATTACHED HERETO.

BEST COPY AVAILABLE

(c) Notwithstanding the foregoing, Lessor agrees that prior to declaring any termination of this lease by reason of a default of Lessee it will give written notice thereof to any mortgagee or other holder of a security interest in the rights of Lessee hereunder who has filed written notice of such mortgage or security interest with Lessor, and such mortgagee or other holder of a security interest shall have thirty (30) days from the time of such notice in which to cure or cause to be cured any such default of Lessee. The remedies hereinabove afforded Lessor shall not be deemed to be exclusive or alternative, but such remedies shall at all times be deemed to be cumulative; and, in addition thereto, Lessor shall have each and every other remedy afforded it by this lease, by any custom or usage, or by law.

12. Upon the termination of this lease, whether by expiration of the term or from any other cause whatever, Lessee shall have the right to remove from said land any building or structure or structures or appurtenances constructed or maintained by him thereon, as hereinbefore provided, for the period of ninety (90) days next after the termination of this lease, and no longer; and title to all such structures or appurtenances or any part thereof remaining upon said land after the lapse of said ninety (90) days shall fully vest in and become the property of the Lessor, its successors or assigns, without any conveyance thereof, and without any liability on the part of the Lessor to pay for the same, or any part thereof.

13. Any holdover by Lessee, after termination of this lease for any cause, shall be as a tenant by sufferance, subject, however, to all the terms and conditions hereof.

14. Lessee shall commence construction of a residence building or buildings on the leased premises within 12 mos. after the effective date of this lease, and shall complete the same within one hundred eighty (180) days thereafter, except only for delays caused by events beyond Lessee's control.

15. No waiver by the Lessor of any covenants herein contained shall be a waiver of any succeeding breach of the same covenant.

16. In the event of a destruction of the buildings or structures on the leased premises during the term hereof, Lessee shall within a reasonable time from the happening of said event [illegible] rebuild and restore the same unless otherwise agreed by Lessor. In the event of a removal of the buildings or structures on the leased premises at the expiration of the term hereof Lessee will promptly remove all foundations, fill all excavations, level and grade said premises, and in general restore said premises to a safe and sightly condition. Lessee shall maintain fire and extended coverage insurance on the insurable improvements owned by Lessee in reasonable amounts and with responsible insurance companies licensed in Wisconsin.

17. If during the term of this lease all or substantially all of the leased premises shall be taken by any public authority under the power of condemnation, this lease shall terminate as of the date possession shall be taken by the acquiring authority and the funds held by the Trustee shall be disbursed as provided in the Trust Agreement. In the event of such termination Lessee shall be permitted to remove from the premises all buildings or other improvements located thereon and owned by Lessee unless said buildings or improvements shall be acquired by the taking authority. In the event said buildings or improvements are acquired by the taking authority pursuant to said proceedings, then Lessee shall be entitled to such part of the condemnation award or compensation attributable to such buildings and improvements owned by Lessee. Except as hereinabove expressly provided, no part of any condemnation award or compensation, whether for the whole or a part of the demised premises, shall belong to Lessee, nor shall Lessee, in the event that this lease is terminated as hereinabove provided, have any claim against Lessor for the value of the unexpired term hereof.

18. Lessor covenants and agrees that Lessee, upon keeping and performing all of the terms, covenants and conditions hereof, shall and may peaceably and quietly have, hold and enjoy said premises, for the uses and purposes aforesaid, for the term aforesaid, unless sooner terminated as herein provided.

19. It is understood that Lessor is under no obligation to furnish water or any other utility or other services to the leased premises. Lessee shall, however, pay the cost, if any, of installing power line service adjacent to the leased premises, but shall not be liable for the cost of Lessee's connection thereto or for service lines installed at the request of Lessee.

20. This lease and the terms, conditions and covenants herein contained shall inure to the benefit of and be binding upon the successors and assigns of Lessor and, if assigned with the written consent of the Lessor or as otherwise herein permitted, shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns or successors of Lessee. In the event Lessor, during the term hereof, shall be dissolved or liquidated then, Lessee may as of the effective date of such dissolution or liquidation exercise the right of option to purchase the leased premises in the manner provided in paragraph 10 hereof. If such option is not exercised by Lessee upon the happening of such events, then this lease and the terms, conditions and covenants herein contained shall inure to the benefit of and be binding upon any successor or successors, assigns, trustee or trustees of Lessor and shall likewise be binding upon and inure to the benefit of the heirs, executors, administrators and assigns of the Lessee.

IN WITNESS WHEREOF, Menominee Enterprises, Inc., has caused these presents to be signed by A. D. Clements its President, and countersigned by Lucille M. Chapman, its Secretary, at Neopit, Wisconsin, and its corporate seal to be hereunto affixed, and Lessee has hereunto set his, her or their hand and seal, all on the day and year first above written, in duplicate.

Signed, Sealed and
Delivered in Presence of

Karen Waukau

Karen Waukau, Neopit, Wis.

Letitia Caldwell

Letitia B. Caldwell, Neopit, Wis.

MENOMINEE ENTERPRISES, INC.

By A. D. Clements
A. D. Clements President

By Lucille B. Chapman
Lucille B. Chapman Secretary

(CORPORATE SEAL)

STATE OF WISCONSIN }
MENOMINEE COUNTY } ss.

Personally came before me this 10th day of November, 1964, A. D. Clements, President, and Lucille B. Chapman, Secretary, of the above named corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the act of said corporation, by its authority.

(NOTARIAL SEAL)

Byron W. Grignon

Notary Public, Menominee County, Wisconsin W. W. Grignon
My Commission expires 7-2-67

Signed and Sealed in Presence of

J. Joseph Cummings

J. Joseph Cummings

Mary Sue Ludwig

Mary Sue Ludwig

LESSEE

Raymond J. Ledholz (SEAL)
Raymond Ledholz

Lucille Ledholz (SEAL)
Lucille Ledholz

This instrument was drafted by George W. Kenote, Keshena, Wis

No. 724

Menominee Enterprises, Inc.

TO

Raymond & Lucille Ledholz

Premises

LEASE OF LAND

REGISTER'S OFFICE.
State of Wisconsin,
Menominee County }

Received for Record this 23rd day of March A.D. 1965, at 1:20 o'clock P.M., and recorded in Vol 4 of Leases on pages 165-167

Lillian [illegible]
Register of Deeds.

Deputy.

Return to Menominee Enterprises, Inc.

EXHIBIT "A"

Lessor grants to Lessees a personal, non-assignable right to hunt and fish in Menominee County, subject to local and State laws, ordinances and regulations, without cost, such right being an integral part of Lessees' leasehold interest.

Attachment to lease of Raymond and Lucile Lodholz.

DO NOT DETACH

STATE OF WISCONSIN } ss.
MENOMINEE COUNTY }

OFFICE OF REGISTER OF DEEDS

I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded (filed) in the office of the Register of Deeds in and for said County on the 23 day of March 1965 at 1:25 o'clock P M., in Vol 4 of Records on page 168-169 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 20 day of June A. D., 1973

Carol Frechette
Register of Deeds in and for Menominee County.

TRUST AGREEMENT — Individual and Corporate
DOCUMENT NO.

TRUST AGREEMENT

[illegible] made and entered into this 6th day of November [illegible] 19[illegible], by and between [illegible] Lodhola of Outagamie County, State of Wisconsin [illegible] (1471 [illegible] Dr., Appleton) [illegible] ENTERPRISES, INC., of Menominee County, State of Wisconsin, (herein called "Lessor"), and [illegible] c/o Shawano National Bank of Shawano County, State of Wisconsin, (herein called the "Trustee").

WITNESSETH: WHEREAS, under date of November 6, 19[illegible]4, Lessee entered into and executed [illegible] Lease of Land, (herein called the "Lease") with Lessor pursuant to which Lessee did lease from Lessor certain land owned by [illegible] in Menominee County, Wisconsin, described as follows:

Lot No. 1, recorded at Pages 8 and 9, Volume 2, Certified Surveys of Menominee County, as recorded with the Register of Deeds, Menominee County, Wisconsin.

WHEREAS, the term of the Lease is for 40 years commencing November 6, 19[illegible]4, and the aggregate annual unpaid rental payable thereunder by Lessee to Lessor together with the amount payable pursuant to the [illegible] purchase option granted to Lessee amounts in all to the sum of $3075.00 [illegible] $360.00 having been paid Lessor as initial payment, and

WHEREAS, Lessee desires to deposit the whole of said unpaid rental and purchase price with the Trustee to be held, [illegible] disbursed to Lessor annually in forty-one (41) installments of $ 66.22 each as required by the Lease and upon all of the terms and conditions herein provided;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and of the sum of One Dollar ($1.00) paid by each [illegible] the other, receipt whereof is hereby acknowledged, Lessee, Lessor and Trustee hereby agree as follows:

1. Trustee acknowledges receipt from Lessee of the sum of $ 2715.00 and agrees that he will hold, invest and disburse [illegible]

[illegible] 6th day of November, 19 5, and on or before the 6th day of November [illegible] and including November 6, 20 04, the Trustee shall pay [illegible] to Lessor [illegible] for the annual advance rental due from Lessee under the Lease, and on or before November 6, 20 04, $ 66.22 as and for the purchase price for said leased premises payable by Lessee pursuant to the [illegible] in the Lease, said option being hereby exercised by Lessee and accepted by Lessor.

[illegible] to Lessor and payment to the Trustee of his fees and expenses as herein provided, the Trustee [illegible] the funds deposited hereunder by Lessee and shall invest the same from time to time in a reasonable and prudent manner and as permitted from time to time by Wisconsin Statutes relating to investment of trust funds, and as may be requested by Lessee. All net income derived from any such investment shall accrue to and be distributed at least annually to Lessee. Lessor agrees that Lessee shall not be required to pay or deposit any additional amount, as rent or for purchase of said leased premises. The risk of loss on investment of the funds deposited hereunder shall be borne by Lessee and the benefit of any increase in principal value resulting from investment shall inure to the benefit of Lessee.

4. The Trustee shall be entitled to compensation for his services hereunder in the amount of $ [illegible] during the term hereof, and for reimbursement of all expenses incurred in administering this Trust. Such [illegible] to the Trustee shall be paid only from income derived from investment of funds held hereunder and, at least annually, the Trustee shall furnish a [illegible] to Lessee showing the balance of funds on deposit, all disbursements and all income received.

5. (a) This Trust shall be irrevocable on the part of Lessee and shall terminate on November 6, 20 04, after final payment of the rent and purchase price due Lessor has been made, or such earlier date as shall coincide with any termination of the Lease.

(b) If the Lease be terminated prior to November 6, 20 04, otherwise than by a purchase of the leased premises by Lessee, all accrued income, unpaid rentals and other charges due Lessor as of such date shall be paid to Lessor, and the balance of funds in possession of the Trustee, less any compensation and reimbursement of expenses due him shall be divided and paid [illegible] Lessee and Lessor as follows: Lessor shall be entitled to one-forty first (1/41st) of the amount initially deposited hereunder with the Trustee for each [illegible] year of the Lease term remaining but not exceeding the balance of funds then held by the Trustee, and Lessee shall be entitled to the [illegible] of such funds, if any.

(c) If such termination shall take place on November 6, 20 04, or such earlier date upon which Lessee shall have exercised his option to purchase the leased premises pursuant to paragraph 20 of the Lease, Lessor shall deliver to Lessee the warranty deed as provided in the Lease and all remaining funds in possession of the Trustee, less any compensation and reimbursement of expenses due him shall be delivered to Lessee.

6. Except as herein expressly provided, the Trustee shall at all times have the general power to do and perform any and all acts and [illegible] in relation to this Trust in the same manner and to the same extent as an individual might or could do with respect to his own property, [illegible] for the purpose of making the investments permitted hereunder commingle the funds deposited in this Trust with other funds held by the Trustee under any other Trust or Trusts similar in nature hereto and created for the purpose of paying rental or other obligations to accrue in the future to Lessor. The Trustee shall have no right or obligation to disburse any funds held hereunder for payment of property taxes or any obligations of Lessee under the Lease except as herein and in the Lease expressly provided.

7. If at any time prior to the termination of this Trust the Trustee shall resign, die or otherwise be unable to act as Trustee, he shall be succeeded by such individual officer or employee of Shawano National Bank of Shawano, Wisconsin, as shall be designated by the President of such Bank. If the Trustee shall at any time cease to be an officer or employee of Shawano National Bank he shall be deemed [illegible] as Trustee hereunder and shall be succeeded in the manner aforesaid.

[illegible] This Trust shall continue in effect for the term aforesaid and shall be subject to assignment of rights by the Lessee only in connection with [illegible] assignment of the Lease or an assignment thereof by operation of law or by foreclosure of any mortgage or other [illegible]

[illegible] agrees to purchase and keep in effect a surety bond issued by a licensed surety under the laws of Wisconsin [illegible] to cover all funds deposited with him hereunder, unless the applicable employee fidelity bond of Shawano National Bank [illegible] and Lessor for all actions of the Trustee hereunder. The cost of any such surety bond allocable to this Trust shall be [illegible] hereunder as an expense of the Trustee.

[illegible] This [illegible] upon and inure to the benefit of Lessee, Lessor and the Trustee and their respective [illegible]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals or caused these presents to be [illegible] the day and year first above written.

Signed and Sealed in Presence of:

J. Joseph Cumming
J. [illegible]

Mary Sue Ludwig
Mary Sue Ludwig

Raymond Ludwig
Raymond Ludwig

Lucille Ludwig
Lucille Ludwig

MENOMINEE ENTERPRISES, INC.

By A. L. Clemente
A. L. Clemente

Karen Waukau
Karen Waukau, Neopit, Wis.

Letitia B. Caldwell
Letitia B. Caldwell, Neopit, Wis.

Attest Lucille B. Chapman
Lucille B. [illegible]

(Corporate Seal)

Charles Mauske

As Trustee Carl Wilke

No. 725

Raymond & Lucille Ludwig & Menominee Enterprises

TO

Carl Wilke, t/a Shawano National Bank

Premises

TRUST AGREEMENT

This instrument should be immediately recorded upon receipt to avoid future trouble and litigation.

REGISTER'S OFFICE,
State of Wisconsin,
Menominee County.

Received for Record this 23rd day of March A. D., 1965, at 4:25 o'clock P. M. and recorded in Vol. 4 of ~~Deeds~~ Records on page 168-169

Lillian Pleau
Register of Deeds.

Deputy.

Returned to Menominee Enterprises, Inc.

Mr. GIESE. Now, at a later date on these outright purchases of property, the Menominee Enterprises notified the people on the lake that they could receive warranty deeds in fulfillment of their trust agreement immediately; apparently, the trust agreements and the lease land contract agreement ran into problems as to merchantability. Bankers and lawyers particularly are people that are conservative in their approach.

And in Wisconsin, it is a conventional method of acquiring property, either by the end contract or by warranty deed. A land contract gives you an equitable interest in the property with the seller retaining title until you pay in full. And the warranty deed gives you legal title immediately.

So at a later date, after the trust agreements were first used, Menominee Enterprises then switched to warranty deeds, which were to replace the trust agreements in the leases.

I am offering as an exhibit here a deed between Menominee Enterprises and Robert H. Rector, which indicates what I have previously stated.

[The information referred to follows:]

DO NOT DETACH

STATE OF WISCONSIN } ss.
MENOMINEE COUNTY }

OFFICE OF REGISTER OF DEEDS

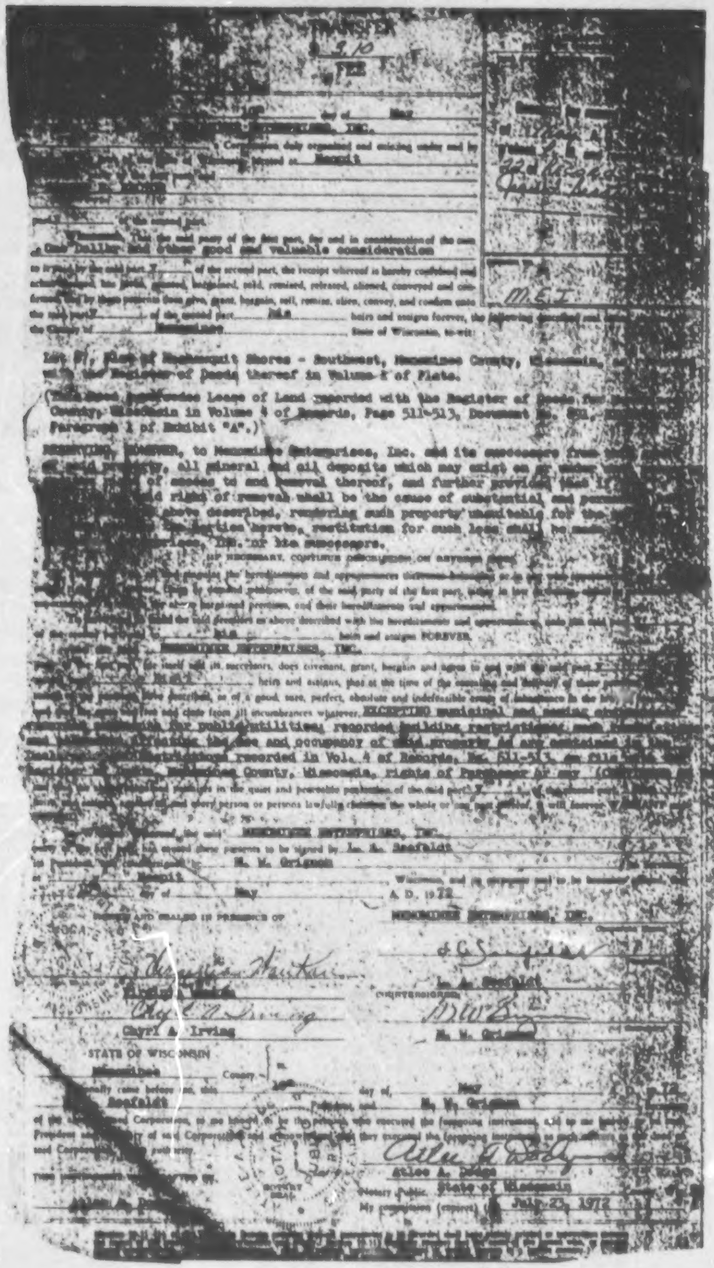
I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded ~~(filed)~~ in the office of the Register of Deeds in and for said County on the 10 day of May 1972 at 3:45 o'clock P M., in Vol. 22 of Records on page 392-93 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 22 day of June A. D., 1973

Carol Frechette
Register of Deeds in and for Menominee County.

BEST COPY AVAILABLE

358



TRANSFER

$ 3.10

FEE

[illegible] day of May

[illegible] ENTERPRISES, INC.

a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Neopit

[illegible]

part y of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of One Dollar and other good and valuable consideration

to it paid by the said part y of the second part, the receipt whereof is hereby confessed and acknowledged, has given, granted, bargained, sold, remised, released, aliened, conveyed and confirmed, and by these presents does give, grant, bargain, sell, remise, alien, convey, and confirm unto the said part y of the second part, his heirs and assigns forever, the following described real estate situated in the County of Menominee, State of Wisconsin, to-wit:

22d [illegible]

M.E.I.

Lot [illegible], Plat of [illegible] Shores - Southwest, Menominee County, Wisconsin, [illegible] with the Register of Deeds thereof in Volume [illegible] of Plats.

(This Deed supersedes Lease of Land recorded with the Register of Deeds for [illegible] County, Wisconsin in Volume 4 of Records, Page 511-513, Document No. [illegible], [illegible] Paragraph 1 of Exhibit "A".)

RESERVING, HOWEVER, to Menominee Enterprises, Inc. and its successors from [illegible] of said property, all mineral and oil deposits which may exist on or under [illegible] of access to and removal thereof, and further provided that if [illegible] said right of removal shall be the cause of substantial and permanent [illegible] above described, rendering such property unsuitable for the [illegible] conveyed hereto, restitution for such loss shall be made [illegible] Enterprises, Inc. or its successors.

IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining; and all the estate, right, title, interest, claim or demand whatsoever, of the said party of the first part, either in law or equity, either in possession or expectancy of, in and to the above bargained premises, and their hereditaments and appurtenances.

To Have and to Hold the said premises as above described with the hereditaments and appurtenances, unto the said part y of the second part, and to his heirs and assigns FOREVER.

And the said MENOMINEE ENTERPRISES, INC.

party of the first part, for itself and its successors, does covenant, grant, bargain and agree to and with the said part y of the second part, his heirs and assigns, that at the time of the ensealing and delivery of these presents it is well seized of the premises above described, as of a good, sure, perfect, absolute and indefeasible estate of inheritance in the law, in fee simple, and that the same are free and clear from all encumbrances whatever, EXCEPTING municipal and zoning [illegible] easements for public utilities, recorded building restrictions, [illegible] and [illegible] affecting the use and occupancy of said property as are contained in the [illegible] restrictions recorded in Vol. 4 of Records, Pg. 511-513, on file [illegible] Menominee County, Wisconsin, rights of Purchaser or any [illegible]

and that the above bargained premises in the quiet and peaceable possession of the said part y of the second part, his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, it will forever WARRANT and DEFEND.

In Witness Whereof, the said MENOMINEE ENTERPRISES, INC.

party of the first part, has caused these presents to be signed by L. A. Roefaldt, its President, and countersigned by M. W. Grignon, its [illegible]

at Neopit, Wisconsin, and its corporate seal to be hereunto affixed, this [illegible] day of May, A. D. 1972.

SIGNED AND SEALED IN PRESENCE OF

MENOMINEE ENTERPRISES, INC.

L. A. Roefaldt

Virginia Walker

COUNTERSIGNED:

Cheryl A. Irving

M. W. Grignon

STATE OF WISCONSIN

Menominee County } ss.

Personally came before me, this [illegible] day of May, A. D. 19 72, L. A. Roefaldt, President, and M. W. Grignon, [illegible] of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and [illegible] of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Atlee A. Dodge

Notary Public, State of Wisconsin

My commission (expires) (is) July 23, 1972

This instrument was drafted by

Atlee A. Dodge

[redacted]

DO NOT DETACH

STATE OF WISCONSIN
MENOMINEE COUNTY } ss.

OFFICE OF REGISTER OF DEEDS

I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded (filed) in the office of the Register of Deeds in and for said County on the 17 day of January 1966 at 9:50 o'clock A M., in Vol. 4 of Records on page 511-513 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 22 day of June A. D., 1973

Carol Frechette
Register of Deeds in and for Menominee County.

DOCUMENT NO.

LEASE

This Indenture made and entered into this 22nd day of November, 19[illegible], between ME[illegible] PRISES, INC., a Wisconsin corporation, with its principal office and place of business at Neopit, Menominee County, Wisconsin, party of the first part and hereinafter referred to as Lessor, and Robert [illegible] 1735 Campbell St., Neenah, Wis. of Winnebago County, State of Wisconsin, second party, hereinafter referred to as Lessee.

WITNESSETH: Lessor, for and in consideration of the sum of $ 360.00 in hand paid by Lessee, the receipt whereof is hereby acknowledged by Lessor, has granted, bargained, conveyed, demised and leased, and by these presents does grant, bargain, demise and lease to Lessee the following described land located in Menominee County, to wit:

Lot 87, Plat of Moshawquit Shores - Southeast, Menominee County, Wisconsin, as recorded with the Register of Deeds, Menominee County, Wisconsin.

The term of this lease is for 40 years, effective and commencing on the 22nd of November [illegible]. The annual rental for said term is $ 180.00 payable on the first effective date of this lease at the office of Lessor, and thereafter payable in advance thereafter, annually, on said same date, there having been paid and received, effective the date of this lease, the sum of $ 360.00 annual rental for the first and last years of occupancy of the land described herein. Annual rental not paid when due shall bear interest at the rate of 6% per annum, compounded semi-annually until paid.

And the Lessor and Lessee in consideration of said leasing agree as follows:

1. The land herein leased is part and parcel of Lessor's "Menominee Forest Lakes Vacation Land Homes" development in Menominee County, Town of Menominee, Wisconsin, per recorded plat thereof, and said land is to be used and occupied for the sole purpose of [illegible] and maintaining thereon a single family residence together with necessary outbuildings and appurtenances.

2. Lessee may not sell, assign or transfer this lease, and will not lease or sublet or sell the buildings and structures or appurtenances thereon or any part thereof except as herein expressly permitted, without first obtaining the written consent of the Lessor, which consent shall not be unreasonably withheld. It is understood and agreed that the requirements of this paragraph are intended to protect present or future lessees and owners within the "Menominee Forest Lakes Vacation Land Homes" development from unapproved or undesirable occupants. In the event of the death of Lessee during the term hereof Lessee's interest herein may be transferred without prior consent of Lessor to Lessee's surviving spouse or to an adult child or grandchild of Lessee, subject however, to all of the terms and conditions herein stated. In the event, prior to the expiration of the term hereof, Lessee desires to sell his interest in this lease together with any buildings and improvements erected by Lessee, Lessor will, at Lessee's request, have said buildings and improvements appraised and will seek to find a buyer therefor and a substitute lessee hereunder at such appraised value, with payment of the net sales proceeds to be made to Lessee upon completion of any such sale.

3. Except as hereinafter provided, Lessee will pay, when due, any and all taxes and assessments, ordinary or extraordinary, that may be levied or assessed upon or against the leased premises or any structures or improvements thereon which may become a lien, [illegible] with the taxes and assessments levied or assessed for the year 19 66. In event Lessee fails to pay any such taxes or assessments when due, or as respects any unpaid rent or charges or defaulted indebtedness or liens incurred by Lessee, Lessor shall have the right to pay the same and to recover the amount of any such advance from Lessee upon demand and until paid Lessor shall have a lien against the leased premises and all improvements located thereon. Lessor will, at its expense, construct a road providing access to the leased premises. Any assessments subsequently levied for additional road improvements shall be paid by the Lessee.

4. Lessee will make no other use of the above premises than herein specified. Lessee will not permit or maintain any nuisance on said premises or sell or suffer to be sold thereon any alcoholic, spiritous, or intoxicating liquors, or permit the use of said premises or buildings or structures located thereon for the purpose of conducting any trade, business, occupation, or profession for or any commercial purpose, whether legal or not. Lessee further covenants to comply with and obey all laws, ordinances and governmental regulations applicable to the use and occupancy of said premises.

5. Lessee shall have the right, without prior consent of Lessor, to mortgage or otherwise pledge his, her or their interest in the leased premises as well as all improvements located thereon subject to all of the terms and conditions hereof, and provided, that any such mortgage or other security instrument shall expressly provide that any default in the terms and conditions of this lease shall also constitute a default in such mortgage or other security instrument, and that every mortgagee or other holder of a security interest in Lessee's interest hereunder agree that in the event of default by Lessee thereon, and prior to the commencement of any foreclosure or other similar proceedings to give Lessor written notice thereof and Lessor shall have the option, exercisable within a period of ninety (90) days after receipt of such notice, to purchase and acquire such mortgage or other security interest by payment of the amount due thereon, in which event the same shall be duly assigned to Lessor. In the event Lessee's interest herein shall be foreclosed or otherwise subject of assignment by reason of enforcement of any mortgage or other security lien placed thereon by Lessee, then any such assignment shall be on and subject to performance and compliance with all of the terms and conditions herein stated.

6. Lessee covenants not to commit waste upon the leased premises and to keep the same safe and in good condition, to maintain and keep all buildings and improvements located thereon in good repair, and that all liability arising out of failure to so do or arising in any manner out of the use and occupancy thereof by Lessee will be assumed by Lessee, and Lessee indemnifies Lessor against any and all claims of liability or loss or damage by reason thereof. Except for mortgages or other security liens permitted in accordance with paragraph 5 hereof, Lessee will not suffer the leased premises or any structure or improvement thereon during the term of this lease to become subject to any lien, charge, or encumbrance whatsoever, and will indemnify and keep indemnified the Lessor against all such charges, liens and encumbrances.

If requested by Lessor, Lessee will execute and deliver to Lessor before the commencement of any construction on the leased premises a bond, in form satisfactory to Lessor, conditioned for the indemnity of Lessor against all mechanics' and other liens (other than construction mortgages or similar liens) which may arise or be created in or about the erection of any building or buildings, outbuildings, and appurtenances and providing that when any such construction is completed the said premises shall be free from all such liens.

7. Lessor shall have the right of reasonable entry upon the premises herein leased for all lawful business purposes. Lessor further reserves a four (4) foot strip of land on said premises abutting lakes or streams parallel and adjacent to the shore line thereof for public [illegible] and easement purposes.

8. Detailed plans for any building or buildings, and appurtenances thereto, proposed to be constructed on the leased premises by Lessee shall be submitted to Lessor for approval with respect to location and standards of architecture, safety, and water, sewage and sanitary facilities. Lessor's right to approve such plans shall be reasonably exercised and, in so far as practicable, all standards adopted by Lessor shall be uniformly applied.

9. Lessor, with respect to the land herein leased, reserves the right to maintain and insure good timber cover, good [illegible]; and any trees to be removed shall be removed only by or with the consent of Lessor.

10. If the term hereof shall be less than fifty (50) years, then Lessee shall have an option to renew the same for successive terms of ten (10) years each up to the maximum term of fifty (50) years from the commencement hereof. If the term hereof shall be fifty (50) years, or in the case of successive ten (10) year renewals as above provided, the annual rental payable during each renewal term, or each ten (10) year portion of a fifty (50) year term, shall be adjusted to equal six per cent (6%) of the appraised value of the land comprising the leased premises as determined by a qualified appraiser mutually selected by Lessor and Lessee, provided that in no event shall the increase or decrease in annual rental payable during a succeeding ten (10) year period exceed twenty-five per cent (25%) of the annual rental paid during the prior ten (10) year period. If Lessor and Lessee cannot agree upon the selection of an appraiser then such appraisal shall be determined by a majority of three appraisers, one each selected by Lessor and Lessee and the third by the two appraisers so selected. Except for the rental adjustment provided above, each renewal term shall be on the same terms and conditions as herein stated. Such renewal option, if any, shall be exercised by written notice to Lessor given not less than ninety (90) days prior to the end of the primary or any renewal term hereof. If this lease be for an initial term of forty (40) years or more, or if for a lesser initial term but renewed up to a total term of forty (40) years, Lessee shall have an option to purchase the leased premises at the end of forty (40) years upon payment in cash of an amount equal to the applicable annual rental in effect for the last effective year of the lease. Such option shall be exercised by written notice to Lessor given not less than ninety (90) days prior to the end of said forty (40) year period. Upon the exercise of said option conveyance of the premises shall be made on the fortieth (40th) anniversary of the commencement of the term hereof by Lessor's warranty deed, free and clear of all liens and encumbrances except the following: municipal and zoning ordinances, recorded easements and restrictions, rights of Lessee or any persons claiming under or through Lessee and acts of Lessee and his, her or their predecessors in interest, taxes and assessments levied or assessed during the term hereof, and such restrictions and covenants affecting the use and occupancy of the premises as are contained herein and which Lessor shall determine to continue in effect. Not less than thirty (30) days prior to the time of conveyance Lessor shall furnish to Lessee either, (a) a complete abstract of title covering the premises to be conveyed, extended to within ten (10) days of the date of delivery thereof, said abstract to show Lessor's title to be marketable and in the condition herein called for, or, (b) an owners' policy of title insurance in the amount of the purchase price, naming Lessee as the assured and which shall guarantee Lessor's title to be in the condition herein called for, subject to the standard conditions and exceptions contained in such policies issued by title companies in Wisconsin. A commitment by a title company, agreeing to issue such title policy upon the recording of a warranty deed to Lessee, shall be a sufficient performance hereof.

11. (a) If the rent hereby reserved shall be unpaid for a period of thirty (30) days after the same becomes payable, whether lawfully demanded or not, or if any covenant on the Lessee's part herein contained shall not be performed or observed after thirty (30) days' [illegible] written notice thereof to Lessee, or on the expiration of the term hereof, the lease herein granted shall cease and terminate and in any of said cases it shall be lawful for the Lessor to re-enter and repossess the leased premises and any structures or improvements located thereon.

(b) In the event Lessee shall at any time or times during the term hereof be under any law of the United States found or declared a bankrupt, or under the laws of any state be discharged from his, her or their debts as an insolvent debtor, or shall make a vol[illegible] ment of property for the benefit of creditors, or suffer a receiver to be appointed over such property, or if any interest in this [illegible]

Exhibit "A" is made a part hereof as of date of execution and pertains to [illegible] and Conveyance Rights of this lease.

WB-8, Lease Approved by the Wisconsin Real Estate Brokers' Board [illegible] judgment adverse to Lessee, or to which consent has been given, or if this lease, or any [illegible] operation of law except as herein permitted, then and in any such case it shall be considered as a default [illegible] action as provided in this paragraph for any other default by Lessee and without the giving of any notice.

[illegible] Lessor agrees that prior to declaring any termination of this lease by reason of a default of Lessee [illegible] to any mortgagee or other holder of a security interest in the rights of Lessee herein granted [illegible] with Lessee, and such mortgagee or other holder of a security interest shall have [illegible] default of Lessee. The remedies herein afforded Lessor [illegible] but such remedies shall at all times be deemed to be cumulative, and in addition thereto, [illegible] every other remedy afforded it by this lease, by any custom or usage, or by law.

[illegible] termination of this lease, whether by expiration of the term or from any other cause whatever, Lessee shall have the right [illegible] buildings or structures or appurtenances constructed or maintained by him thereon, as herein pro[illegible] ninety (90) days next after the termination of this lease, and no longer, and title to all such structures or appurtenances [illegible] remaining upon said land after the lapse of said ninety (90) days shall fully vest in and become the property of the Lessor [illegible] without any conveyance thereof, and without any liability on the part of the Lessor to pay for the same, or any part [illegible]

[illegible] by Lessee, after termination of this lease for any cause, shall be as a tenant by sufferance, subject, however, to all the [illegible] including payment of rental herein provided.

[illegible] construction of a residence building or buildings on the leased premises within 12 months after the [illegible] lease, and shall complete the same within one hundred eighty (180) days thereafter except only for delays caused by causes [illegible]

[illegible] by the Lessor of any covenants herein contained shall be a waiver of any succeeding breach of the same covenant.

[illegible] event of a destruction of the buildings or structures on the leased premises during the term hereof, Lessee shall within a [illegible] the happening of said event completely rebuild and restore the same unless otherwise agreed by Lessor. In the event [illegible] buildings or structures on the leased premises at the expiration of the term hereof Lessee will promptly remove all founda[illegible] level and grade said premises, and, in general, restore said premises to a safe and sightly condition. Lessee shall [illegible] extended coverage insurance on the insurable improvements owned by Lessee in reasonable amounts and with responsible [illegible] licensed in Wisconsin.

[illegible] the term of this lease all or substantially all of the leased premises shall be taken by any public authority under its power [illegible] this lease shall terminate as of the date possession shall be taken by the acquiring authority, and rents payable hereunder [illegible] accordingly. In the event of such termination Lessee shall be permitted to remove from the premises all buildings or [illegible] thereon and owned by Lessee unless said buildings or improvements shall be acquired by the taking authority. [illegible] buildings or improvements are acquired by the taking authority pursuant to said proceedings, then Lessee shall be entitled [illegible] condemnation award or compensation attributable to such buildings and improvements owned by Lessee. Except as here[illegible] provided, no part of any condemnation award or compensation, whether for the whole or a part of the demised premises, [illegible] nor shall Lessee, in the event that this lease is terminated as hereinabove provided, have any claim against Lessor for [illegible] unexpired term hereof.

[illegible] covenants and agrees that Lessee, upon keeping and performing all of the terms, covenants and conditions hereof, shall [illegible] and quietly have, hold and enjoy said premises, for the uses and purposes aforesaid, for the term aforesaid, unless sooner [illegible] provided.

[illegible] understood that Lessor is under no obligation to furnish water or any other utility or other services to the leased premises. [illegible] however, pay the cost, if any, of extending power line service adjacent to the leased premises, but shall not be liable for the cost [illegible] thereto or for service lines installed at the request of Lessee.

[illegible] lease and the terms, conditions and covenants herein contained shall inure to the benefit of and be binding upon the successors [illegible] and, if assigned with the written consent of the Lessor or as otherwise herein permitted, shall be binding upon and inure [illegible] the heirs, executors, administrators, assigns or successors of Lessee. In the event Lessor, during the term hereof, shall be [illegible] liquidated then, Lessee may as of the effective date of such dissolution or liquidation exercise the right of option to purchase the [illegible] in the manner provided in paragraph 10 hereof. If such option is not exercised by Lessee upon the happening of such event, [illegible] and the terms, conditions and covenants herein contained shall inure to the benefit of and be binding upon any successor or suc[illegible] trustee or trustees, of Lessor and shall likewise be binding upon and inure to the benefit of the heirs, executors, administrators [illegible] of Lessee.

20. In the event Lessee terminates this lease for any cause whatever, any rental paid by Lessee for any annual period hereof, shall be [illegible] as liquidated damages, this, however, without abrogation of any other right or rights of Lessor, or claims by Lessor against [illegible]

IN WITNESS WHEREOF, Menominee Enterprises, Inc., has caused these presents to be signed by A. D. Clements [illegible] countersigned by M. W. Grignon, its Secretary, at Neopit, Wisconsin, [illegible] and Lessee has hereunto set his, her or their hand and seal, all on the day and year first above written, in duplicate.

[illegible] presence of:

MENOMINEE ENTERPRISES, INC.

[illegible], Neopit, Wisconsin
By A. D. Clements, President

[illegible], Neopit, Wisconsin
By M. W. Grignon, Secretary

(CORPORATE SEAL)

STATE OF WISCONSIN }
[illegible] COUNTY } ss.

[illegible] me, this 22 day of November, 19 5, A. D. Clements, President, [illegible] Grignon, Secretary, of the above named corporation, to me known to be the persons who executed [illegible] to me known to be such President and Secretary of said corporation, and acknowledged that they executed the [illegible] officers as the act of said corporation, by its authority.

Felicia B. Caldwell

(NOTARIAL SEAL)

Notary Public, Menominee County, Wisconsin (Felicia B.Caldwell)
My commission expires 11/10/68

LESSEE:

[illegible] of:

Margaret E. Tilly

Robert Hector (SEAL)

(SEAL)

This instrument was drafted by George W. Kenote, Keshena, Wisconsin

TO

Premises

LEASE

REGISTER'S OFFICE,
State of Wisconsin,
Menominee County }

Received for Record this 19th day of January A. D. 1966, at 9:58 o'clock A. M., and recorded in Vol. 4 of Records, on page 511-93

Lillian Plead
Register of Deeds

Deputy

RETURN TO
Menominee Enterprises, Inc.

EXHIBIT "A"

Attachment to lease.
Lessor: Menominee Enterprises, Inc., Neopit, Wis.
Lessee: Robert Rector.

1. Lessor grants to Robert Rector and his immediate family a personal and non-assignable right to hunt and fish in Menominee County, subject to State and local laws and regulations, without cost; such rights being an integral part of this leasehold interest.

2. Lessee shall have the right to convert to the Lease-Trust plan, as per forms WB–8b and WB–8c, at any time during the term, deposit with the trustee under form WB-8c to be $3,075.00, less the total amount allocable to principal under this Exhibit "A" of the payments made by Lessee on an annual rental up to the time of the conversion and the amount paid as rental for the fortieth year.

3. The annual rental herein provided for at $180.00 shall be paid at the Shawano National Bank, Shawano, Wisconsin. For the first ten-year term of this lease, said annual payments, taking into consideration a 6% interest factor, are scheduled with respect to principal and interest as follows:

Year	Principal	Interest	Year	Principal	Interest
1	$73.17	$106.83	6	$73.17	$106.83
2	73.17	106.83	7	73.17	106.83
3	73.17	106.83	8	73.17	106.83
4	73.17	106.83	9	73.17	106.83
5	73.17	106.83	10	73.17	106.83

Mr. GIESE. All of us who have purchased property outright on the lake now have warranty deeds to our property having received them anywhere from about 1967 up to—the Rector one happens to be a 1972 deed. And I wanted to show that and have that introduced into the record, because of its reference to the fishing and hunting rights, which were in the others as well, which I will allude to later.

But I wanted to show that as late as 1972, these rights were still recognized.

Now, another exhibit that I have here today is an agreement to cancel lease and purchase real estate; in other words, where these leases were entered into which were as I said, actually purchase agreements and you paid your price in full. And they decided you didn't have to wait for 40 years under that trust agreement to get title. They would give you the deed right away.

The Menominee Enterprises requested that you enter into an agreement to cancel a lease and purchase the real estate, and then they gave you this warranty deed, which I refer to as a previous exhibit.

And I have, as an exhibit here today, an agreement to cancel lease from purchase real estate which was entered into between Robert Rector and Menominee Enterprises, Inc.

Mr. MEEDS. Without objection, it will be made a part of the record at this point.

[The information referred to follows:]

DO NOT DETACH

STATE OF WISCONSIN
MENOMINEE COUNTY } ss.

OFFICE OF REGISTER OF DEEDS

I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded (filed) in the office of the Register of Deeds in and for said County on the 10th day of May 19 72 at 3:45 o'clock P M., in Vol. 22 of Records on page 389-391 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 22 day of June A. D., 19 73

Carol Frechette
Register of Deeds in and for Menominee County.

Received for record the 10th day of May A.D. 1975 at [illegible] o'clock P. M. and recorded in Vol. [illegible] of Records page 362-391
[illegible] Register
Deputy

DOCUMENT. NO. 7142

AGREEMENT TO CANCEL LEASE AND PURCHASE REAL ESTATE

This Agreement made and entered into this 2nd day of April, 19 75, between MENOMINEE ENTERPRISES, INC., a Wisconsin corporation, with its principal office and place of business at Neopit, Menominee County, Wisconsin, hereinafter referred to as Seller, and ROBERT HECTOR of Winnebago County, State of Wisconsin, hereinafter referred to as Purchaser.

WITNESSETH: WHEREAS, under date of November 22, 19 65, Purchaser entered into and executed a certain Lease of Land, (herein called the "Lease") with Seller pursuant to which Purchaser did lease from Seller certain land owned by Seller located in Menominee County, Wisconsin, described as follows:

Lot 87, Plat of Moshawquit Shores - Southwest, Menominee County, Wisconsin, as recorded with the Register of Deeds thereof.

WHEREAS, said Lease of Land was duly recorded with the Register of Deeds for Menominee County the 17th day of February, 19 66, in Volume 4 of Records at page(s) 511-513 thereof; and

WHEREAS: the term of the aforesaid Lease of Land was for FORTY (40) years, and was effective and commenced on the 22nd day of November, 19 65; and

WHEREAS: the parties hereto desire to revoke and cancel the aforesaid Lease of Land executed by said parties and the Seller to sell and the Purchaser to purchase said property;

NOW THEREFORE, in consideration of the mutual covenants herein contained, Seller and Purchaser hereby agree as follows:

1. The Seller agrees to sell and the Purchaser agrees to buy the herein previously described real estate; such real estate being the same property presently leased by Purchaser under the aforementioned Lease of Land executed by these parties under date of November 22, 19 65.

2. The Parties agree that the purchase price shall be $3,075.00, of which $795.00 has been paid by Purchaser to Seller under the aforementioned Lease and which amount shall be allowed as a credit against said purchase price at the time of closing, with the balance of the purchase price due in the amount of $2,[illegible] to be paid in full in cash at the time hereinafter set forth as the time of closing.

3. Seller shall, upon payment of the purchase price, convey the property by good and sufficient Warranty Deed free and clear of all liens and encumbrances, except the following: municipal and zoning ordinances; recorded easements for public utilities; recorded building restrictions; right of Purchaser or any persons claiming under or through Purchaser and acts of Purchaser and his, her or their predecessors in interest as lessees of said property; taxes and assessments levied or assessed during the term of any lease of said property; such restrictions and easements affecting the use and occupancy of said property as are contained in the aforementioned Lease of Land executed by the parties hereto under date of November 22, 19 65; and all mineral and oil deposits which may exist on or under said property together with the right of access to and removal thereof, which deposits and right of access and removal are reserved to Seller and its successors from the grant of said property, provided however that if the exercise of said right of removal shall be the cause of substantial and permanent harm to the property herein described,

rendering such property unsuitable for the purposes presently allowed and contemplated by the parties hereto, restitution for such loss shall be made by Seller or its successors.

4. Not less than ten (10) days after the date of this Agreement Seller shall furnish to Purchaser an owners' policy of title insurance in the amount of the purchase price, naming Purchaser as the assured and which shall guarantee Seller's title to be in the condition herein called for, subject to the standard conditions and exceptions contained in such policies issued by title companies in Wisconsin. A commitment by a title company, agreeing to issue such a title policy upon the recording of a warranty deed to Purchaser, shall be a sufficient performance hereof.

5. Sale shall be consummated and conveyance made within thirty (30) days after the date of this Agreement with closing to take place at Seller's offices or at such other place as the parties hereto may agree.

6. The aforementioned Lease of Land, executed by the Parties hereto under date of November 22, 1965, shall be canceled and revoked in its entirety; such revocation to be effective immediately upon the issuance by the Seller to the Purchaser of a Warranty Deed containing the exceptions and restrictions hereinbefore set forth and conveying the same property described in said Lease of Land.

7. Purchaser hereby expressly represents that he has full authority to enter into this Agreement to Cancel Lease and Purchase Real Estate and that the consent of no lienholder, mortgagee, pledgee, assignee or other security holder is needed to allow his execution of this Agreement; or, if such consent is necessary or required, that it has been secured at the date of this instrument as aforestated.

8. This Agreement shall be binding upon the Seller, its successors and assigns, and upon the Purchaser, and his successors, assigns or heirs; provided, however, that Purchaser may not assign or otherwise transfer his interest or rights hereunder except with the consent of Seller, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, Menominee Enterprises, Inc., has caused these presents to be signed by L. A. Seefeldt, its President, and countersigned by M. W. Grignon, its Secretary, at Neopit, Wisconsin, and its corporate seal to be hereunto affixed, and Purchaser has hereunto set his, her or their hand and seal, all on the day and year first above written.

Signed. Sealed and Delivered
in Presence of:

MENOMINEE ENTERPRISES, INC.

By
L. A. Seefeldt, President

By
M. W. Grignon, Secretary

(CORPORATE SEAL)

366

STATE OF WISCONSIN }
MENOMINEE COUNTY } SS

Personally came before me, this 10th day of May, 19 72, [illegible], President, and [illegible], Secretary, of the above-named Menominee Enterprises, Inc., a corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said corporation, and acknowledged that they executed the foregoing instrument as such officers of said corporation by its authority.

(NOTARIAL SEAL)

Atlee A Dodge
Atlee A. Dodge,
Notary Public
Menominee County, Wisconsin
My Commission expires July 23, 1972

Signed and Sealed in Presence of:

PURCHASER:
X Robert H Rector (SEAL)
ROBERT RECTOR

(SEAL)

This instrument drafted by: Frederic C. Eberlein,
Attorney at Law
Shawano, Wis. 54166

Mr. GIESE. Now, as a later date if you wanted to purchase property on an installment basis, as I said, they ended land lease agreement and the trust agreement, which were just subterfuges for land contracts and deeds—if you wanted to buy a purchase agreement, you entered into a land contract. This is the most used document in Wisconsin for the installment purchase of real property, which provides that after the payments are made upon the property, as specified in the land contract, the property will be deeded to the vendee, the purchaser under the land contract by warranty deed.

I have one of these land contracts, which was entered into in July of 1968 between the Howard B. Lancelle and the Enterprises which I will offer as an exhibit.

Mr. MEEDS. Without objection, it will be made a part of the record.

[The information referred to follows:]

DO NOT DETACH

STATE OF WISCONSIN }
MENOMINEE COUNTY } ss.

OFFICE OF REGISTER OF DEEDS

I, Carol Frechette, Register of Deeds in and for Menominee County, in the State of Wisconsin do hereby certify that I have compared the within instrument hereunto annexed, with the records of an original instrument recorded (filed) in the office of the Register of Deeds in and for said County on the 23 day of Feb. 19 70 at 11:15 o'clock A M., in Vol 10 of Records on page 120-127 as the same appears of record and that the same is a true and correct copy and transcript of such instrument so recorded and of record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal this 22 day of June A. D., 19 73

Carol Frechette
Register of Deeds in and for Menominee County.

DOCUMENT NO. 3223

Received for record the 23rd day
of Feb. A.D., 1970 at 11:15
o'clock A.M., and recorded in Vol.
12 of Records page 120-127
Register
Deputy

LAND CONTRACT

THIS ARTICLE OF AGREEMENT, made and concluded this 19th day of July, A.D., 1968, by and between Menominee Enterprises, Inc., a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Neopit, Wisconsin, herein called "Seller", and Howard B. Lancelle and Doris J. Lancelle, his wife, ______, herein called "Purchaser",

WITNESSETH: First, that the said Purchaser hereby agree___ and bind themselves, their legal representatives, to pay, or cause to be paid, to the said Seller, its successors, representatives or assigns, the sum of Four Thousand Five Hundred and 00/100 ($4,500.00)--------- Dollars, in the manner following: One Thousand Five Hundred and 00/100 ($1,500.00)--------- Dollars, at the ensealing and delivery hereof; and Three Thousand and 00/100 ($3,000.00)--------------------- Dollars, to be paid as follows:

The sum of One Thousand Five Hundred and 00/100 ($1,500.00) Dollars on or before July 19, 1969, without interest, final payment of One Thousand Five Hundred and 00/100 ($1,500.00) Dollars on or before July 19, 1970, without interest. If the additional payments are not made as required, the same shall carry interest at six per cent (6%) from the date of this Contract (July 19, 1968) until paid.

The said payments to be made to the Seller, at its offices in Neopit, Wisconsin, or such other place as the Seller shall designate, and the same being intended to apply, when fully completed as the purchase money for the following tract, piece or parcel of land, situated in the County of Menominee and State of Wisconsin, to-wit:

> Lot 30, Plat of East Moshawquit Shores, Menominee County, Wisconsin, as recorded with the Register of Deeds, Menominee County, Wisconsin.

The Purchaser agree___ to pay all taxes and assessments which have been assessed or levied on the above described premises since the 1st day of January, A.D., 1969.

The said Purchaser further agree___ that they will commence construction of a single family residence upon said property within one year from the date hereof and that such construction will be completed within two years after such commencement, subject to the conditions and restrictions as set forth in Exhibit "A", attached hereto and incroporated herein in its entirety.

The said Purchaser further agree___ that they will pay, when due and payable, all taxes and assessments which may be hereafter assessed or levied thereon until all conditions as herein set forth have been fulfilled.

The Purchaser further agree___ to hold the said premises from the date hereof, as the tenants by sufferance of the said Seller, subject to be removed as its tenants holding over, by process under the statute in such cases made and provided, whenever default shall be made in the payment of any of the installments of purchase money, interest, taxes or assessments as above specified or whenever a breach shall be made of any covenant, restriction or condition contained in Exhibit "A" attached hereto and made a part hereof; and not to do any act whatsoever, which tends to depreciate the value of said premises.

Second, that the said Seller hereby agrees and binds itself, its successors, representatives and assigns, that in case the aforesaid sum of Four Thousand Five Hundred and 00/100 ($4,500.00) Dollars, with the interest and other moneys shall be fully paid and all the conditions herein provided shall be fully performed at the times and in the manner above specified, or prior to the times above specified, it will, on demand, thereafter cause to be executed and delivered to the said Purchaser, or their heirs or legal representatives, a good and sufficient Warranty Deed, in fee simple, of the premises above described, reserving, however, to Seller and its successors from said grant of said property, all mineral and oil deposits which may exist on or under such property and the right of access to and removal thereof, and further provided that if the exercise of said right of removal shall be the cause of substantial and permanent harm to the property above described, rendering such property unsuitable for the purposes contemplated by the parties hereto, restitution for such loss shall be made by Seller or its successors, such property to be otherwise free and clear of all legal liens and incumbrances, except the taxes and assessments herein agreed to be paid by the Purchaser, and except any liens and incumbrances created by the act or default of the Purchaser, their heirs, legal representatives or assigns, and municipal and zoning ordinances, recorded easements for public utilities, recorded building restrictions, such restrictions and easements affecting the use and occupancy of said property as are contained in Exhibit "A" attached hereto and made a part hereof and, if the Purchaser hereunder is a previous lessee or the assignee of a previous lessee hereunder, rights of the Purchaser or any persons claiming under or through the Purchaser and acts of the Purchaser and his, her or their predecessors in interest as lessees of said property and taxes and assessments levied or assessed during the term of any lease of said property.

Third, it is distinctly agreed and understood by and between the parties hereto, that, if the said Purchaser shall fail to make any of the payments of purchase money and interest above specified, or fail to pay the taxes and assessments, or violate any other terms or conditions herein contained, this agreement shall, at the option of the said Seller, its successors or assigns, be henceforth utterly void, without any notice whatsoever, and all payment thereon forfeited, subject to be revived and renewed only by the act of the Seller, or the mutual agreement of both parties; and whenever such default or violation shall occur, the Purchaser shall have no further right to collect rents from tenants, if any, of the said real estate, or any part thereof, but such rents shall be collected by, and belong to the Seller.

The said Purchaser further promise___ and agree___ that in case of the commencement of action to foreclose this contract, and also in case of the foreclosure thereof, ____________________ they will pay, in addition to the taxable costs and expenses incurred, a reasonable sum of money as attorney's fees.

IN WITNESS WHEREOF, the said Menominee Enterprises, Inc., herein called "Seller", has caused these presents to be signed by A. D. Clements, its President, and countersigned by M. W. Grignon, its Secretary, at Neopit, Wisconsin, and its corporate seal to be hereunto affixed, and the Purchaser have hereunto set their hands and seals this 17th day of February, A.D., 19~~68~~70.

Signed and Sealed in
Presence of:

MENOMINEE ENTERPRISES, INC.

A D Clements

A. D. Clements President

P. J. Waukechon Sr.

Countersigned:

Alice Fredenberg

Alice Fredenberg

M. W. Grignon Secretary

Signed and Sealed in
Presence of:

Howard B. Lancelle (SEAL)
Purchaser

Howard B. Lancelle

Leslie J. Smith

Leslie J. Smith

Doris J. Lancelle (SEAL)
Purchaser

Doris J. Lancelle

Patricia Wery

Patricia Wery

____________________________ (SEAL)
Purchaser

____________________________ (SEAL)
Purchaser

STATE OF WISCONSIN)
) ss.
COUNTY OF MENOMINEE)

Personally came before me this 15th day of November A.D., 19 68, A. D. Clements, President, and M. W. Grignon, Secretary of the above named Corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Letitia B. Caldwell

Notary Public, Menominee County, Wis.
My Commission expires November 1, 1972
(Letitia B. Caldwell)

STATE OF WISCONSIN }
} ss.
COUNTY OF Brown }

Personally came before me this 17th day of February A.D., 19~~69~~ 70, the above named Howard B. Lancelle and Doris J. Lancelle, his wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

LESLIE J. SMITH

Leslie J Smith
Notary Public Brown County,
Wisconsin
My Commission is permanent
Leslie J Smith.

This instrument drafted by:

Attorney Frederic C. Eberlein
Box 265, Shawano, Wisconsin 54166

MENOMINEE ENTERPRISES, INC.
Neopit Wisconsin

EXHIBIT "A"

The property herein described shall be subject to the following restrictions and/or easements effecting the use and occupancy of such property:

1. Said land is to be used and occupied for the sole purpose of constructing and maintaining thereon a single family residence together with necessary out-buildings and appurtenances.

2. Said property will be put to no use other than herein specified. There shall not be permitted or maintained any nuisance on said premises nor the sale thereon of any alcoholic, spirituous, or intoxicating liquors, nor the use of said premises or buildings or structures located thereon for the purpose of conducting any trade, business, occupation, or profession or for any commercial purposes, whether legal or not.

3. There is reserved to Menominee Enterprises, Inc. and its successors from said grant of said property, an easement in a four-(4) foot strip of land on said premises abutting lakes or streams parallel and adjacent to the shore line thereof, as it may exist from time to time, for purposes of conserving and maintaining said shore line.

4. There is further reserved to Menominee Enterprises, Inc. and its successors from said grant of said property, all mineral and oil deposits which may exist on or under such property and the right of access to and removal thereof. If the exercise of said right of removal shall be the cause of substantial and permanent harm to the property herein described, rendering such property unsuitable for the purposes hereinbefore set forth, restitution for such loss shall be made by Menominee Enterprises, Inc. or its successors.

5. Detailed plans for any building or buildings, and appurtenances thereto, proposed to be constructed on said premises shall be submitted to Menominee Enterprises, Inc. for written approval with respect to location and standards of architecture, safety, and water, sewage and sanitary facilities. Such building or buildings, the location thereof, and related sanitary facilities shall conform to Zoning and Building Ordinances in effect in Menominee County at the date of the attached Offer to Purchase and, insofar as applicable, such Ordinances shall constitute the standards of approval of Menominee Enterprises, Inc. In no such event, however, shall the residence building erected on said property contain less than 1,000 square feet of enclosed space. The right of Menominee Enterprises, Inc. to approve such plans shall be reasonably exercised and, insofar as practicable, all standards adopted by said Menominee Enterprises, Inc. shall be uniformly applied. In the event that Menominee Enterprises, Inc. fails to approve or disapprove any plan or plans within thirty (30) days after the same have been submitted to it, or in any event, if no suit to enjoin the erection of such structure or to order removal of such structure has been commenced within one (1) year after the completion thereof, such

(Exhibit "A" continued)

such approval will not be required and this provision will be deemed to have been fully satisfied.

6. In order to maintain and insure good and sufficient timber cover and accepted methods of silviculture, any and all trees to be removed from the within described property shall be removed only by or with the consent of Menominee Enterprises, Inc.

7. In the event that the property described herein shall be property upon which no residence building exists at the date of the attached Offer to Purchase, construction of a residence building or buildings on such premises shall be commenced within one (1) year after the effective date of the conveyance of said property, and such construction shall be completed within two (2) years after such commencement of construction except only for delays caused by acts beyond the control of Purchaser or his assigns.

8. No waiver by Menominee Enterprises, Inc. of any covenants herein contained shall be a waiver of any succeeding breach of the same covenant.

9. The right to enforce or waive any and/or all covenants, restrictions and easements contained herein shall vest solely in Menominee Enterprises, Inc. or its successors. However, in the event that Menominee Enterprises, Inc., the grantor herein, shall cease to exist or be dissolved, and there be no successor, then the right to enforce and to waive such covenants, restrictions and easements shall be transferred to and vest in an association of property owners formed for that purpose or, if such association not be formed, in the governing political body of the Town of Menominee, Menominee County, Wisconsin.

10. The willful failure of the Purchaser, his heirs or assigns hereunder to comply with any covenants herein contained, written notice of such noncompliance having been given to such parties by Menominee Enterprises, Inc., and a reasonable time for rectification of such noncompliance having passed, shall constitute a cause of action for breach of such covenant, restriction or condition subsequent and shall enable Menominee Enterprises, Inc. to enforce such covenant, restriction or condition subsequent by proceedings at law or in equity against the person or persons violating or attempting to violate the same.

12. The invalidity of any of the covenants herein contained declared by any judgment or court order shall in no wise affect any of the other provisions herein contained, which shall remain in full force and effect.

11. The Purchasers covenant that they will comply with all zoning laws and ordinances of the Town of Menominee, the County of Menominee, and the State of Wisconsin. This Paragraph Eleven (11) shall be enforced as provided in Paragraph Ten (10).

* * * * * * * * * * * * * * * * *

Mr. GIESE. So you can see, gentlemen, we came up there with goodwill in our hearts, and with an idea that it could be mutually advantageous to everybody concerned. We were convinced we had absolute title to the property, a conviction that has not changed today, and we continue to enjoy it, and hope that we can reciprocate with the Menominees in the county by providing some economic encouragement.

Now, the foregoing background information was presented so you would have a better understanding of what motivated the Lake

Moshawquit Property Owners Association to have representation here today on this hearing on H.R. 7421 regarding return of reservation status to Menominee Indians. It should be made perfectly clear that on the question of whether the Federal Government should restore the Menominee to tribal status, the Association takes no position at this time, either for or against.

I am sure that all of us as American citizens concerned with this problem do have personal opinions on that. But I am sure we have a diverse number of personal opinions in the association. We are not here as an association today to present those views.

We, however, as an Association—individual real property owners in Menominee County—we are concerned about the impact effects of the adoption of H.R. 7421, specifically, we are concerned about the impact that any restoration act would have on our county government, both politically and economically.

We want to make you aware of the fact that in returning to reservation status that new events have occurred since termination of reservation status in 1961, which must be given consideration of passage of any new legislation on this subject.

And incidentally, I would like the committee's consent to make a correction. In the copy that was presented to you, it read, "1959;" it should have been "1961", on page 4 as the date that the termination took effect.

We are aware that most of the impact of restoration must be solved on a State level with the State legislature. However, it is our position that to avoid further error—and I have heard there is a lot of it. We have heard a lot of criticisms of of the termination policy because of the swiftness that occurred, and the lack of studies being made, and the impacts of termination on the Menominees.

We are concerned that the impact problems be solved prior to or simultaneous with any restoration act being passed. However, it is our position that to avoid further error—I guess, I'm sorry. In this matter, any Federal legislation should be dovetailed with any necessary action of the State of Wisconsin legislature.

We feel very strongly that in order to solve the problems of Menominee County and its people, the impact problems of restoration should be fully disposed of prior to or simultaneous with restoration.

I believe that the evidence of this fact has been clearly demonstrated by the several hearings held already this year on the restoration question, on both Federal and State legislative committees.

Now, I would like to make a few comments, in particular in regard to the bill itself with the act. It would seem to me that section 3(c), lines 20 to 23, page 2 could be clarified. This provision provides that nothing contained in the act shall alter any property rights, contractual rights, etc. unless specifically provided for in the act.

I presume this section refers to property rights, etc. existing at the time of the passage of the act. But this could be made more definite. Further clarity in the second sentence of section 3(c) could result if it were created as a separate subsection, and made definite as to application to all persons.

And I wanted to refer particularly to the act where the first sentence in that subsection 3(c) provides, "nothing contained in this act shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty or otherwise."

I understand from the author that the intent of this subsection 3(c) and particularly the second sentence is to protect the property rights of both the Menominees and the non-Menominees, the contractual rights.

Now, I think that it would behoove the committee to have that as a separate subparagraph, because taken in conjunction with the first sentence of that paragraph, it could be interpreted that it was meant to apply only to Menominee or tribal rights.

I also would like to point out in that particular regard to that subsection, that we have, as I indicated to the committee, a number of installment purchase agreements, either these leases or land contracts still outstanding between Menominee Enterprises and non-Menominees, or possibly even between some Menominees that are purchasing property at the present time, and have been purchasing property for a number of years from MEI on an installment basis.

Query: If all the property presently held by MEI is transferred to the Secretary as the act provides, where is the authority under the act for the Secretary to deed by warranty deed to the installment purchaser fulfillment of his land contract, this land that he would be holding in trust, because the land contract holder does not have a legal interest in that land at the time that it would be transferred to the Secretary, but only an equitable interest?

I think the committee should give some serious thought and consideration to that.

Section 6(a) as I understand it is an attempt to provide an orderly period of transition from the time of enactment of this act until such time as the tribal owned real property was removed from the tax rolls. We approve of this provision as a compromise, but would prefer a position authorizing the Wisconsin Legislature to restructure the county government.

Our concern is that without some restructuring of the local government units, the nontaxpaying, nonvoting and non-Menominee will have some real serious problems. For truly, even though one may have a valid, legal title to his property, unless he is able to find a ready market for its disposal, it is without value.

It is interesting to note that in the Bureau of Indian Affairs Report of this year entitled, "The General Economic Situation of the Menominee Indian Tribe of Wisconsin," there is a constant citing of the fear of oppressive, exhorbitant real property taxes as it affects MEI in Menominee County under the Termination Act. This same report also criticizes the lack of Menominee Indian representation on the nine-member Shawano Joint School No. 8 District Board.

Section 7 of the act should be amended in several ways. It should be pointed out that the leases, trust agreements and deeds on Lake Moshawquit—and this is true also of a number of the instruments on all the lakes where there are no Menominees prior to 1970—provide for fishing and hunting rights on the form that is indicated on page 5 of my report.

The lessor grants to and the name of the person, his immediate family, a personal and nonassignable right to hunt and fish in

Menominee County subject to the State and local laws, and regulations without cost; such rights being an integral part of this leasehold interest.

Section 7 under this act should be rewritten at 3 to provide that any rules and regulations adopted pursuant thereto shall apply equally to tribal members and non-Menominee real property owners. And this would protect and effectuate the contractual hunting and fishing rights granted as aforesaid to non-Menominee property owners.

I could foresee a condition that could arise here where an attempt to exercise his hunting and fishing rights, where the tribe has a right to adopt rules and regulations; that they could adopt some that could be more stringent on non-Menominees than they would on Menominees; and in effect nullify the hunting and fishing rights that were granted by the previous instruments on record.

Sections 3 of page 8, line 18 should be amended to delete the following: "and the State shall stock these lakes in the same manner as other lakes regulated by the State of Wisconsin." We do not feel it is necessary to ask the State of Wisconsin to stock our lake in particular. We have stocked our lake with our funds in the past under management policies, game management policies; we have no objection of doing so in the future.

I think to ask the State of Wisconsin to stock those lakes, is going to invite more public demands from the people of the State of Wisconsin for the use of those lakes. They are small lakes. They are small in nature. And they are already saturated with enough with the people who are presiding on the lakes, and the use of their recreational equipment, fishing equipment, et cetera, without getting the general public in there.

I do not feel that that is inconsistent with our position in asking protection for our property rights up there, because we have had that pattern set by Menominee Enterprises. As an example, on our lake, there is a considerable area that is set forth as park property for the use of Menominees only. We dare not use it. It's for their exclusive benefit, which we have no objection to. And I don't want to indicate that we object to that.

But I do want to point out that the Menominee was very careful not to allow the general public to come into the lake either. They sold, but took precautionary measures to preclude the general public from the use of these lakes.

Furthermore, as an example, they were always very concerned that we did not, when we had guests up and exercising our hunting and fishing rights—they promulgated rules and regulations that would only allow us to have one guest to fish with us, as an example. Again, they were concerned with the usage of these lakes by the general public.

We also have had that concern right along, and have adopted rules and regulations as to the association use of the lease, and as to our use of the lease. So I think it's completely consistent with preserving the environmental quality of the area.

Section 6 (c) and (d), and section 8, the words "Menominee County" should be deleted, and substituted therefore should be the words, "the territory constituting on the effective date of this act the County of Menominee." I don't think I have to go into great depths in that. I think Mr. Theobald has covered that in a memorandum or a letter either to counsel for the subcommittee.

I would like to point out one part of it, though; the suggested change by the Menominee Indian Study Committee, which was presented here today to you in a letter by Senator LaFave, and has been recommended by the committee, which is here at section 6(f) for the purpose of implementing section 3: "the State of Wisconsin may establish such local governmental bodies, political subdivisions and service arrangements as will best provide the State or local government services required by the Menominee Indian Tribe."

I would suggest that that be changed to provide—we are in agreement with that amendment, because we feel it would allow restructuring of this government if necessary to avoid some of these impact questions by the State legislature.

We are in agreement with the above-proposed amendment, provided the words "Menominee Indian Tribe" be deleted, and substitute therefore would be the words, "people in the territory constituting on the effective date of this act the County of Menominee."

We feel that if you're going to have restructuring of government, which is the intent of the provision, it is the intent to restructure it for not only the Menominees, but for all the people residing in the area.

In closing, in regard to these particular questions, I want to remind you that indeed changes have occurred in Menominee County since termination. You just can't turn the clock back. There are effects of all of this, and we hope that prior to the adoption of any restoration you will give it a lot of serious consideration, and hope that you will delay the effective dates at least for the 2 years, so that these problems can be worked out as provided by the present act; and hopefully, you would adopt some authorization of that act for restructing of the local government.

Now, you may say that some of our fears—I've heard testimony by enough known lawyers to this day, particularly on this question, but I did hear advice solicited or otherwise volunteered by nonlawyers, and not particularly, I didn't hear of any qualification as their particular expertise in this field.

Now, there are some limits imposed upon taxation by local units of government. This is one of our fears as we have indicated to this committee, and I am sure they are well aware of. Indications were made of the limitation on the ability of the town to tax. There were implications that there was a limitation on the power of the town unit of government, which exists within the county government framework in Menominee County; one town government only. Whereas most other counties in Wisconsin have a number of town governments, but they all have town governments existing within the county.

There were references made that there were limitations. So I would like to read to the committee a statutory section, that governs that, and that is Wisconsin Statute 60.18, Powers of Town Meeting.

> If the qualified electors of each town shall have the power in annual meeting by vote, "and subsection 1 of that particular stature provides raising money limitations:" to raise money for the repair and building of roads or bridges,

> for the support of the quorum defraying all other charges and expenses of the town exceeding the aggregate exclusive of taxes for schools and liabilities that are formed lawfully incurred, and not including income taxes from the treasury, 1 percent of the assessed valuation of such town for the proceeding year as equalized by the town board of review; except as provided in paragraphs (a) and (b). (a) the town and counties containing only one town such aggregate shall not exceed one-half of one percent of said valuation; (b) an additional sum not exceeding one-fourth one percent of said valuation may be raised for the repair of highways and bridges in any town.

I want to point out that this particular statute refers to limitations on the power of the town meeting. This is a duly assembled meeting required by statute annually in April of each year in each town in Wisconsin where the electors have the right to appear and to be heard and to vote.

This limitation is placed on the electors, I want to point out; not the town board. I want to point out also that under the power of the town meeting, in particular 60.18, subsection 12, the Wisconsin Legislature has granted to the town meeting the authority to grant to the town board village powers. In other words, if most of the electors here decide in this town, that they want to have village powers—which are much broader under Wisconsin law than town powers—the electors can, at their annual meeting, grant that power.

And that section 60.18(12) particularly provides town boards to exercise powers of village boards when to direct by a resolution the town board to exercise all powers relating to villages and conferred on village boards by chapter 61; except such power the exercise of which would conflict with the statutes relating to towns and town boards. Any such resolution heretofore adopted pursuant to existing law, or hereafter adopted pursuant to this law shall remain in full force and effect until rescinded.

Now, in addition, that this limitation is just on the town meeting; the town board has many powers under the statute that are independent from the powers of the town meetings and from the electors, as elected representatives. And that is found in section 60.29 in the Wisconsin statute. And in carrying out those powers, they have the authority to levy and to raise taxes necessary to effectuate the purposes of that statute.

I am legal counsel for a town at the present time and a sanitary district. I am fully aware of this power and authority that is vested in the town board to raise money for the purposes specified in that act. And I might point out that it is to construct buildings and to provide for industrial development, and so forth.

Now, the other things is that under this particular 60.29 at subsection 13, powers like village boards. This is a town board now; has the power to exercise powers relating to villages and conferred on village boards when lawfully authorized so to do by resolution of the town meeting, adopted pursuant to subsection 12 of section 60.18.

In other words, where the town meeting has authorized the exercise of village powers, which include home rule powers, unlike a town and are much broader in scope; this town board can exercise the village powers.

And now, we go over to—I would like to just take a minute to refer to the village powers in regard to taxation, and the raising of money. Section 61.34(1) of the Wisconsin statute provides a general grant to power the village boards, and those are powers that could be exercised by the town board if they had been authorized.

Except as otherwise provided by law, the village board shall have the management and control of the village property, finances, highways, streets, navigable waters, the public services; and shall have the power to act for the government and the good order of the village for its commercial benefit, for the health, safety, welfare, and convenience of the public, and may carry out its provisions in effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fining, imprisonment, and other necessary or convenient means.

The powers hereby granted shall be in addition to all of the grants, and shall be limited wholly by express language. That again, by express language, a village in Wisconsin has a lot more power and authority than a town. A town is limited to the authority that it has specifically delegated by the legislature in the statute. The village has all powers except as specifically limited by statute.

And as I pointed out, the town can adopt these village powers. And now, again, even if you were to not interpret the limitation on taxation of a town to be limited only to the power of the town meetings—and I don't see how it could be interpreted otherwise—if you adopt village powers under—and I'm not going to read it all, but I would like to make the citation; 61.34 subsection (4), village finances. Under that section——

Mr. YOUNG. If the gentleman would yield a moment?

Mr. Chairman, I'm not being impolite, but with all due respect, sir, you've got a law journal that's 6 inches thick. And we have a good legal counsel here, and I would like you to give to this committee the specific areas that you are referring to.

Mr. GIESE. I did.

Mr. YOUNG. Well, fine. We don't want you to read it. You can cite this to the committee; and we're going to be run out of time. That is my opinion, Mr. Chairman, that we are running out of time.

Mr. MEEDS. Well, I think we can give the witness this courtesy. He is talking about the point of the authority of town government, which is very much an issue in this matter. And I do hope he will summarize, because we do have some questions, and I would like to get to the questions as soon as possible.

But he is talking about something important.

Mr. YOUNG. I realize what he's talking about, Mr. Chairman. I'm just saying it's gone on. I've watched him turn the eight pages over to one page to finish it; then turn to another page, you said 10 minutes ago.

Mr. GIESE. They're all interrelated. I will try to be more brief.

Mr. MEEDS. The gentleman will proceed with his testimony.

Mr. GIESE. Under 61.34 subsection 4, village finances; the limitation at that point on taxation becomes 2 percent of the assessed valuation. That is increased, and that is the limitation that is under the village powers, which I would like to point out, and that is assessed evaluation, not equalized, as we used previously.

Menominee County, I believe, it has been the policy to try to assess valuation actually to equalize valuation, which is in effect the true value of the property.

Mr. MEEDS. 0.05 now, is it not?

Mr. GIESE. The last citation?

Mr. MEEDS. 0.05 is what the present city or town of Menominee taxation is, isn't it? 0.05 mill, something like that?

Mr. GIESE. I'm not familiar with the——

Mr. MEEDS. What you are contending is that through a certain procedure of adopting village powers, they could go as high as 2 percent.

Mr. GIESE. That's correct. And I'm contending that and I am also contending that the limitation on the town as to the previous referred to amount only applies to the town meeting powers and not the town board.

And I would like just to take 1 minute and refer to the limitation as to the county taxation, and that is found at 70.62 of the Wisconsin statutes; and in particularly, subsection (2). There is the maximum setup there under that statute. And it is the amount that has been previously referred to as being a limitation upon the ability of the county to levy a tax which is 1 percent of the total valuation of the equalized valuation.

However, at 70.62 subsection (1)(b), there is the following provision, and I'm going to quote it because it is very short. "This limitation shall not apply to any taxes, levy to be paid, the principal interest upon any valid bonds or notes of the county now outstanding or hereafter issued."

In other words, gentlemen, as to bond issues, this limitation on the county does not apply. One of our concerns here has always been thought as an example of the Menominee County courthouse, a new courthouse, etcetera. Now, if this were financed by bond issue or any other project, financed by a bond issue; the county has no limitation as to the amount of tax they can levy to retire the principal interest on that bond issue under Wisconsin law——

Mr. MEEDS. I would hate to interrupt. I was up there, and I saw the courthouse. I hope they did something about it.

Mr. GIESE. It isn't the best, but it isn't the worst in Wisconsin either, Mr. Chairman. So I want to point that out in regard to the limitation of the county. It is extremely limited, and our concern is real there.

Mr. MEEDS. Could we get to some questions, now, or do you have something that you feel is crucial now or critical to your testimony that you would like to summarize?

Mr. GIESE. I think at that point, I've pretty well hit all the points. I'm ready for questioning, Mr. Chairman.

Mr. MEEDS. OK, fine.

I would like to start with your last major point in your prepared testimony, Mr. Giese. Incidentally, I appreciate the time that you have obviously spent on it.

Mr. Theobald, I understand, is here, and I don't know that we will get to talk with him. I hope we will, if we have time left to do so.

But since you adopt his proposal, I would like to ask you some questions about it. Section 6(f) of the Theobald proposal on page 6 of your testimony——

Mr. GIESE. I have a copy of the Theobald proposal.

Mr. MEEDS. It's the one that says:

> For the purpose of implementing subsection 3, the State of Wisconsin may establish such local government bodies, political subdivisions and service arrangements as well best provide the state or local government services required by the Menominee Indian tribe.

Mr. GIESE. Correct; I'm familiar with that.

Mr. MEEDS. You're an attorney. What do you think this does? Can the Federal Government confer any power on the State of Wisconsin or a local government in Wisconsin which it doesn't already have?

And second, what does this do? It says you can do what you can do, as I read it.

Mr. GIESE. Well, Mr. Theobald will have to speak for himself on how he feels on that particular question.

Mr. MEEDS. But you have said that you subscribe to that. Why do you subscribe to it?

Mr. GIESE. I do subscribe to it, because although I suppose it could be legally questioned whether the Federal Government can authorize the State legislature to have that authority. It makes it clear, that they do have that authority.

Mr. MEEDS. Now, you are a lawyer, sir. You took constitutional law, and you know full well that it's not the Federal Government that confers powers on the States, but the other way around; the States confer powers on the Federal Government.

Now, how can the Federal Government confer any power on the State of Wisconsin? I don't understand that.

Mr. GIESE. I think the concern there, Mr. Chairman, is the fact that there are numerous references throughout the act, as it presently stands as Nominee County, which we ask to be amended to the territory presently constituting Menominee County. We are fearful that the legislature will interpret that to mean that this territory of Menominee County, Menominee, should not be changed to its governmental structure.

I'm not sure, incidentally, that article 13, section 7 of the Wisconsin constitution is applicable here, requiring a vote in this particular case if we would want to abolish the county; because that very clearly, I think, is intended to apply to where you want to divide. It's speak of dividing the county and part of the county. It doesn't say whether you want to abolish the county.

Mr. MEEDS. Well, assuming for the purposes of this discussion that it is applicable, are you actually contending that the Federal Government can by legislation change the responsibility that the State of Wisconsin has by legislation enacted upon its own citizenry?

Mr. GIESE. Well, I don't consider myself a constitutional lawyer, as such, Mr. Chairman. I would have to defer until a time that I gave that a lot more study than I have on that part of it.

Mr. MEEDS. Well, then, we're still on constitutional law here, and there's a lot of constitutional law involved in your statement. On page 6 of your testimony, you state that the act should be rewritten to provide that any rules and regulations adopted pursuant to section 7 shall apply equally to tribal members and non-Menominee real property owners to protect and effectuate the contractual hunting and fishing rights granted to non-Menominee property owners.

Again, are you seriously contending that the Menominees can confer rights, treaty rights which they have by virtue of being Menominees, upon white hunters and fishermen?

Mr. **Giese.** Well, of course, hunting and fishing, I think you would have to be separated somewhat.

Mr. **Meeds.** Well, let's take fishing.

Mr. **Giese.** All right. Let's take it.

Wisconsin follows the trust theory of lake ownership. By that I mean that the lake beds are held in trust for all the people of the State and for their benefit.

Now, that means that we would have—if we had these valid hunting and fishing, and fishing particular rights granted by, the MEI, that we should have the right to fish in those lakes, as a member of the public. We do not feel that we should be put into a position where these rights can be abrogated by the tribe adopting rules under this Section 7, which would be applicable only to non-Menominees; and therefore, deprive us of that both contractual right and possibly a legal right anyway under the doctrines of the State of Wisconsin, as to the ownership of lake beds.

Mr. **Meeds.** I assume that the Menominees could provide that each Menominee could take 60 fish a day in Menominee County or in their usual custom fishing places, or under treaty fishing rights.

But you are contending that they could confer that right on a white man by——

Mr. **Giese.** I would like to have a further elaboration on that point, Mr. Chairman, more in regard to—not as to limits, except we couldn't do that because—I'm not advocating we're not subject to the fishing laws of the State of Wisconsin, which wouldn't allow that. I am more concerned with action being taken by the tribe to—as an example, set a very prohibitive license fee for any non-Menominee fishing up there, that we would have to comply with, which would have the effect of negating this right which was granted to us by contract.

Mr. **Meeds.** Well, your language would certainly have to be more tightly drawn than that to proscribe the eventuality that I——

Mr. **Giese.** Well, I'm not aware that I particularly suggest any particular language.

Mr. **Meeds.** Well, you say regulations adopted pursuant thereto shall apply equally to tribal members and non-Menominee real property owners. I don't know how that's possible.

Mr. **Giese.** Well, that's a summary. That's my statement here, but that is not intended—it's contained in my statement, but it's not. I at no time am drafting legislation at that point on this particular point. I am jus[illegible]ng to get the point across that we do need——

Mr. **Meeds.** [illegible]ood luck when you do. I don't think you can, sir.

Mr. **Giese.** I [illegible] It's a very serious problem.

Mr. **Meeds.** Le[illegible] yield to the gentleman from Alaska, if he has any questions.

Mr. **Young.** I have some questions, Mr. Chairman, but you go ahead and I'll come up with them later on.

Mr. **Meeds.** With regard to the property rights, are there any rights which mere ownership of real property in Menominee County can confer on other people that they would not otherwise have?

Now, I don't mean residence; I mean the ownership of property. Clearly, residence will confer some power.

Mr. GIESE. You mean related as to the governmental unit?

Mr. MEEDS. Right.

Mr. GIESE. I don't see where there's any special privileges for just a property owner as such; no.

Mr. MEEDS. There may be some rights, constitutional rights, one would acquire by acquiring property.

Mr. GIESE. Right.

Mr. MEEDS. But it wouldn't give him particularly any right to vote or anything like that.

Mr. GIESE. You're talking about special rights, governmental rights over and above the normal that are afforded all of us. Well, I would agree with that.

Mr. MEEDS. I still haven't gotten too satisfactory an answer to this question. But maybe if you don't know now, you could furnish it for me, or have somebody furnish it for me.

On those lakes, how many of the people and what percentage of the people are permanent residents?

Mr. GIESE. That is pointed out in my report. On the three lakes that I was particularly talking about, it is pointed out there. La Motte, Round and Moshawquit, the lakes that were developed by the Menominees, sold by the Menominees, and so forth. It's also in the closing pages. I think it's about at page 6; you will find reference to the situation on Legend Lake in that regard, Mr. Chairman.

Mr. MEEDS. Forty families on Legend Lake, out of 26' homes, are permanent residents; 100 people living permanently on Legend Lake. Is that about right?

Mr. GIESE. Yes. And page 1 gives the situation as to Moshawquit Lake. There are 11 families on that lake at the present time, and permanent residents including myself, which includes 45 people and approximately 20 children who attend the Joint School District in Shawano, District No. 8.

And the other figures are set out on page 2 also in regard to La Motte and Round Lakes.

Mr. MEEDS. I don't really know whether it's material to this hearing, but since you've testified a lot about it and it's of concern to you, let's get into the question of land ownership, the lease provisions, and the trust agreement.

It is possible that the reason for this 40 year lease arrangement rather than outright deed was an effort to subvert the provisions of the bylaws of Menominee Enterprises, Inc., which, as I recall, provided that it took two-thirds of these outstanding shares to convey real property?

Mr. GIESE. Well, Mr. Chairman, I would go to the motive of the people that were authorized at that time, and holding themselves out and were, in fact, representatives of MEI. We were in no position as a purchaser up there to question their authority. Particularly, we weren't in a position to question their motives.

Mr. MEEDS. Right.

Mr. GIESE. Why they were doing this or that.

Mr. MEEDS. That's a matter of a suit right now, is it not?

Mr. GIESE. No, it is not a matter of a suit. The motives of the people involved in this matter in selling this property is not a subject of the suit.

The suit involves—this suit that you are referring to is presently pending in the State Court of Wisconsin. Is that the one that involves Legend Lake?

Mr. MEEDS. Tomah or something like that.

Mr. GIESE. Yes, something—that's the one. It involves Legend Lake, and this is something subsequent, but I believe it involves a partnership between MEI and Isaacson.

And as I stated, on our lake there was no such developer. There was no such arrangement. It was strictly directly from Menominee Enterprise, Inc., and their representatives and their promotions.

Mr. MEEDS. Did they have two-thirds approval of their shareholders to do that in your instance?

Mr. GIESE. I'm not at all familiar with all the history of the MEI to be able to give you an answer, to be authoritative on that. I'm getting very acquainted with it, but at this point I'm not on that particular——

Mr. MEEDS. In the event they did not have authority to do so, your property then conceivably could be jeopardized. Is that right?

Mr. GIESE. Well, the facts of the matter are—you see, it's pretty clear that where we purchased in good faith, that we in fact—it's a completed, executed contract and we in fact have legal title.

My concern is minimal, non-existent in that regard.

Mr. MEEDS. Well, does this 40-year lease situation raise any danger signals to you? I mean why don't they just give you a straight out deed?

Mr. GIESE. Well, I'll give you, Mr. Chairman—and I'm not intending to offend anybody—I will give you the reason that I was in it. I am speaking also from experience, as you are aware of, as a permanent resident. I was one of the first up there, back in 1965.

And the reason, the only reason I ever heard of all the time that these instruments were used was because it was to protect the Menominees themselves, that they couldn't handle money. If thy got a hold of this money, it would be dissipated immediately.

If they did get some money at the time of termination—and the newspapers, I can remember some stories in the newspaper about the peddlers and everybody else that came to town to peddle everything and anything—refrigerators, electrical goods, etcetera. And how fast that money went; that's the only reason that I ever heard continuously for the use of those type of instruments was just to protect the assets in the form of the money of the Menominee Tribe.

Mr. MEEDS. Do you suppose the provision for two-thirds consent was also put in there to protect the Menominee from dissipating their land assets?

Mr. GIESE. That is possibly the intent. Again, I don't know the legislative history of the—corporate history rather why that was put in, the articles, or that it is part of the legislative history, because I understand the State of Wisconsin took a very special interest in the formulation of this corporation. And I am not that thoroughly familiar with the background on that.

And certainly any buyer up there in good faith didn't go around questioning whether they had authority or not. They were duly elected officers as far as they were concerned.

This thing can get to be where you go in a court of law and you ask the judge the questions first and not the defendant; you ask him what his authority is. That would be as close an analogy as I can come to for many of the purchasers up there.

Mr. MEEDS. Well, I'm sure we can discuss that at length. I'll just ask this difficult question. I think I would probably have to disagree with you when you said that at the time that you went up there and purchased your land, it was and still is the policy to terminate. Did you really mean, "and still is?"

I'd agree certainly that it was the policy at that time.

Mr. GIESE. It is, as I understand it; this joint concurrent resolution has not been repealed.

Mr. MEEDS. Does it appear to you that the policy of the U.S. Congress, or at least this committee, which is the branch of the Congress most concerned with Indian affairs, would still support termination?

Mr. GIESE. I think we are going to rely—I am talking about it from a legal standpoint—I think we would have to rely on what acts they actually performed. And the only act that I am aware of they have done in regarding termination is this concurrent resolution.

Mr. MEEDS. You know what a concurrent resoltion is?

Mr. GIESE. One concurred in by both Houses.

Mr. MEEDS. It expresses the sense of both the House and the Senate; and each Congress has a life of 2 years.

Mr. YOUNG. Mr. Chairman, I don't like you to say that.

Mr. MEEDS. With all due respect to my colleague from Alaska, some of them do not even last that long.

But are you seriously contending that termination is the policy of the U.S. Government? Let me read our leader's statement here.

Mr. GIESE. I am fully informed——

Mr. MEEDS. This is a statement of Richard Nixon on June 8, 1970 after the time you were talking about.

> Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new concurrent resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolution 108, of the 83d Congress.
>
> This resolution would explicitly affirm the integrity and right to continued existence of all Indian tribes and Alaskan native governments, recognizing that cultural pluralism is a source of national strength. It would assure these groups that U.S. Government would continue to carry out its treaty and trusteeship obligations to them as long as the groups themselves believed that such a policy was necessary or desirable, etcetera, etcetera.

I do not know how anybody can seriously contend that termination is still a policy.

Mr. GIESE. I would point out that the President of the United States in 1970 in that request requested that Congress repeal that concurrent resolution. I am not aware of any time that the Congress ever acted on that request.

Mr. MEEDS. Well, the Senate has either considered legislation and passed it, or is considering it now.

Mr. GIESE. I would certainly, Mr. Chairman, would like to clarify. I am not saying that this would not eventually be enunciated.

Mr. MEEDS. Well, you certainly agreed with me that the termination ought not to be a policy of this Government.

Isn't that right?

Mr. GIESE. Now, you're putting me in a position where I am not going to speak as a member of the association as such, because as I pointed out earlier, I am sure there are differences of opinion in there.

Mr. MEEDS. Do you disagree with our leader on this?

Mr. GIESE. I disagree with our leader on a lot of things, and I'm sure Congress does, as evidenced by Congress reaction to this strife that is between the Congress and the President.

Mr. MEEDS. Evidentally, not enough of us.

Mr. YOUNG. Let me remind the Chairman he hasn't lost yet.

Mr. MEEDS. Very well. Thank you very much.

The gentleman from Alaska?

Mr. YOUNG. Mr. Giese, let me apologize a while ago for my rudeness, but we sometimes have a tendency in our professions to prolong the agony, where I don't think it's necessary. I realize your dedication to your position, and your desire to see that those people you represent are represented well; and also protect your individual rights and constitutional rights. And that is a problem.

I am a little bit disturbed by the fact—I think much of this could have been handled through the State legislature as far as the power in the villages, so far as the powers of towns and so far as the powers of cities, are concerned. I think possibly the main thrust of your testimony is, of course, the danger of not being granted equal rights, and being overtaxed, or according to you, taxed too much.

This is your main thrust, isn't it, of your testimony?

Mr. GIESE. Well, there could also be a lot of Government harrassment and so forth, too, because we are not a voting group as such at this point.

Mr. YOUNG. All right.

Under this bill, then, the Menominees are asking for us to adopt this legislation, and they are also asking for the county form of government. Isn't that true?

Mr. GIESE. I am not aware of any way that they have indicated that the State legislature, that they are contending by any formal action that they want to continue the state of the county of Menominee. There are only three bills pending regarding the Menominee question in the State legislature at the present time, and none relate to that.

Mr. YOUNG. Isn't it true that they want to keep their county form of government?

Mr. GIESE. Well, I've heard some discussion to that, but I'm not sure.

I think one thing we should not lose sight of, Mr. Young is that there isn't unanimity among the Menominees, as there isn't among you and I or any of the Caucasians.

Mr. YOUNG. And we're all together. I understand that, but what I'm trying to say is that if a county form of government is adopted, your voting rights are not taken away from you by any means, are they?

Mr. Giese. The voting rights of the residents of the county are not taken away. No; they are in a very distinct minority though at this time.

Mr. Young. How many Menominees are there?

Mr. Giese. There are approximately, according to the testimony that was given earlier by the census count was 2,607. That is the total population of Menominee County, and about 2,300 plus are Menominees, and about 300 are non-Menominees. That is the 1970 census.

Mr. Young. That is counting men, women and children?

Mr. Giese. That is counting men, women and children.

Mr. Young. Is your fear of taxes—and you indicated as best as I can understand—excess taxation because of limitation on the amount of money the county can impose upon its residents. Isn't that true?

Mr. Giese. No; I pointed out earlier in my testimony how this statute has very definite limitations.

Mr. Young. So they would have to take a different form of government under the county system in order to tax their money.

Mr. Giese. Except under the county system, there is a provision in that limitation, that this maximum does not apply for bonded indebtedness, does not apply for interest and principal; in other words, they can put up swimming pools, and they can put in a new courthouse and that would not apply. That maximum would not apply. Yet, they are limited as to that.

Mr Young. All right. But a bond has to be passed by a vote.

Mr. Giese. No; it does not under Wisconsin law. Most bond issues under Wisconsin law are not.

There again, if we did petition the residents, non-Menominees, we would be overwhelmed, of course, in any voting because the voting pattern definitely is Menominee. It's bound to be when you've only got 300 to 400 residents that are non-Menominee.

Mr. Young. Now, you state that there is 23 private—2,300 private land owners; 100 permanent.

Mr. Giese. 2,300. of, yes. Landowners?

Mr. Young. Yes.

Mr. Giese. Yes.

Mr. Young. One hundred permanent residents?

Mr. Giese. Approximately.

Mr. Young. Is there anything keeping you from changing your place of voting?

Is this possible?

Mr. Giese. Is there any chance of we non-Menominees changing our residence for voting?

Mr. Young. Yes.

Mr. Giese. No; under Wisconsin law we have to vote in the county and town of our residence.

Mr. Young. Could you change this, I mean——

Mr. Giese. We know that certainly would be contested by the voting authorities. The residence—the method of determining residence is your principal place of abode, and there are myriad cases on this question or residences and so forth. In other words, you have got two houses, and you spend the principal amount of your time, let's say in Green Bay, and you've got a place up on the lake that you use only a limited period of time, like some of them do on the weekends, and maybe a little heavier in the summer, and a very little during the winter. Your residence is in Green Bay.

And that is clearly established under Wisconsin law that your residence is.

Mr. YOUNG. Mr. Giese, you are a lawyer. The question of residency is on very shakey ground right now as you are, I'm sure, aware. For example, since I am here right now, I can claim that my residence is right here in this chair, and some times I wish it weren't but it is here.

But what I am saying, you have a definite problem; there is a problem. I don't want to take this away from you. You have invested in this property. You want to see that you have equal rights, and you yourself don't want to be penalized with having acted in good faith, but there is a way for doing this through the channels, I think either through your State legislature or through the power of the vote.

I mean, I don't think, in all due respect some of your requests earlier of this committee to give you a privileged position without the resources—I mean there's no way anyone else can take it away from you, you would have your privileged position but with the power of the vote, you can always maintain your position if you are the majority, and you would be the majority if you changed your place of residence.

Mr. GIESE. I think I would like to clarify one thing, Mr. Young, and that is we're not asking for a privileged position. We are asking only that these impact problems, and they are going to be myriad both for Menominees, and non-Menominees; that some of these impact problems that have to be handled at a State level be handled either simultaneous or prior to restoration.

We can see the duress that could be applied to abuse of governmental power if they aren't handled in that manner, and we know that some people are not beyond using those methods. You are fully aware of that.

Now, as far as the changing of election laws, I think that's a very good suggestion. Of course, as you know and I know, the changes on residency in the last couple of years have been mostly by Supreme Court decree, U.S. Supreme Court, as especially involves the right to vote in Federal elections. There hasn't been any disturbance at the State level or State laws governing State and county and town elections. These are involving—residence requirements are changing rapidly.

These decisions were confined to Federal elections. And I would like to say this in passing about the court. If this thing does get into that situation, I am sure that if the legislature does not take action, that this is a good suggestion that we go with that route and try to get them to change it, as to residency.

But we will be in a position where we will probably be contending that very fact that we are taxpaying citizens in that specific location, we therefore, should have a right to vote. That hal always bothered me anyhow. I am a taxpayer in a number of municipalities. And my interest, economically, is great, and yet I have no voice in the government.

Mr. Young. I understand. But the thing you cited on Wisconsin law. I think—and with all due respect for a lot of your problems—it is our duty to deal with the termination agreement. The Menominees are in the position, but your protection primarily should come from the State government.

Mr. Giese. That's true. And we are working on that angle at the present time. There are only three bills pending. We have—I suggested to the Association, we work in that regard, and we have already contacted legislators and are attempting delaying the legislative session. However, for the introduction of bills, it is a proceedural problem and so forth, which I am aware of. But we have talked with people on State level. We are going to be working on that level.

So if truthfully, restoration is going to come about, we and the Menominees want to make this determination.

We don't want to hold it up. We just would like to—and we would like to get going on these problems on the State level as soon as we can. We've already taken action to do just that, and we hope we can expedite that problem.

Mr. Young. Mr. Chairman, I have no other question.

Mr. Meeds. Thank you very much, Mr. Giese, for your testimony. We appreciate it.

Mr. Giese. I wondered, Mr. Chairman, if there was just one closing statement I could make to clarify this question; this question of my position. I emphasize my position on restoration, the restoration or termination question matter.

I feel that I at this point have a very open mind. I don't really know whether restoration is the answer. I am aware of the problems of the Menominee Indians. I am aware of the problems in the plight of the Indians throughout the United States, whether on or off the reservations. I am interested in solutions to that problem.

Whether this is a solution to the problem, I am not at this point convinced upon. I know it's the solution to the politician's problems because it gets them off his back. But whether it's a long range solution to this problem, economically and for the benefit of the Indian in general in this country that I'm not convinced of. I would like to find a solution to it. I would like to see their standard of living increase, etc, etc, I'm all for any minority.

Mr. Meeds. Some of your best friends are minority people.

Thank you, Mr. Giese.

Mr. Giese. I am in many minorities myself, Mr. Chairman.

Mr. Meeds. Is Dr. Theobald here?

Dr. Theobald, could you sum up your proposal, probably for us in 10 minutes, or thereabouts? No longer than 10 minutes.

It is my understanding—this witness's name is Dr. Theobald. It is my understanding that you are legislative counsel for the Wisconsin State Legislature?

STATEMENT OF DR. H. RUPERT THEOBALD, CHIEF OF THE LEGISLATIVE REFERENCE BUREAU, STATE OF WISCONSIN

Dr. Theobald. I am the Chief of the Legislative Reference Bureau of the State of Wisconsin, which is the bill drafting agency and also of the Library Research Agency.

Mr. MEEDS. And you have made a proposal, as I understand it, which would resolve the dilemma of the return of the Menominee County to some other form of government. Is that it?

Dr. THEOBALD. Yes, sir.

Mr. MEEDS. All right.

Would you like to summarize for us?

Dr. THEOBALD. I have no prepared remarks. I come here to learn, and I have done that. I have talked with your committee counsel. If he wants to talk to me, or I should write to him later on, I will do that.

But I will now answer your specific question.

Mr. MEEDS. Please.

Dr. THEOBALD. I point out, by the way—there is a misprint. There's a minor misprint on page 6 of Mr. Giese's proposal that you were talking about. It shouldn't say for the purpose of supplementing subsection 3, but for the purpose of implementing subsection e. So it's a minor correction.

Your specific question was, can the Federal Government grant the State of Wisconsin a power that it might otherwise not have. Let me expand. In addition to being in charge of bill drafting for the Wisconsin legislature, in which my——

Mr. MEEDS. Pardon me, sir. That really isn't my question. I'm sure that this Wisconsin State legislature through its legislation or through its constitution has the power to do most anything it wants to with local government.

What I'm saying is can the Federal Government confer on local governments some right that the State has not conferred on itself?

Dr. THEOBALD. Maybe I misspoke. I thought that's what I said.

Mr. MEEDS. What I said was this provision here, in effect, says go ahead and do what you can do. That's what it seems to me to say.

Dr. THEOBALD. Mr. Chairman, there are three conflicting aims that come into play here. No. 1, in a number of instances—let's start with the Federal Constitution. I am citing this from memory. I believe it says that this Constitution and the laws made in pursuance thereof, and all treaties made shall be the supreme law of the land; anything in the constitution and laws of the State not withstanding.

The law you are proposing to enact is without question a law made in pursuance of the powers granted by the U.S. Constitution. Under the law you are proposing to enact, you are referring in a number of places to Menominee County; since that would be the supreme law of the land, the State of Wisconsin would no longer have the power should that at some time become desirable to abolish the county of Menominee, because Federal law would require its existence.

And therefore, the suggestion was made that the territory be described as the territory constituting on the effective date of this act the county of Menominee. We have a geographic description identical to Menominee County, but the county is not required.

Point two; the Wisconsin constitution permits the State legislature to create counties by subdividing and combining parts of other counties, provided the existing units contain more than 900 square miles. The county of Menominee contains 365.

That county, as I read that provision of our Constitution, is article 13, section 7, cannot be abolished, divided, diminished without a referendum.

We, the Wisconsin legislature, has pending before it a bill proposing a referendum solely on the question of restoring the Menominee Tribe to Federal, recognized status. Menominee County is at this point not involved. In your draft of the bill of section 6, subsection (e), you required that for the purpose of providing the services necessary for the people that make up the Menominee Tribe, State and local government would have to make arrangements that these services will be provided in proper order.

Under our Wisconsin law, we have four forms of local government. We have the county and the town, neither of which have home rule. We have the city and village, both of which so.

The Menominee in establishing the termination implementation legislation in the late 1950's and early 1960's were in fact blessed with the two worst forms of local government you can get in Wisconsin.

I am not suggesting, nor is it my job to suggest, what form of local government Menominee County should have. I am saying that whatever legislation the Federal Government enacts should leave all the options open. Under your section 6(e), there will be a Committee of Menominee that is supposed to cooperate with State government officials, and local government officials to set forth the frame work in which we operate. And if at that point, it becomes desirable not to have a county, because that county functions currently performed by Menominee County could possible be performed by some other unit; I think the important point for the territory constituting the county of Menominee in that we keep it together as a territory, not that we call it a county, or mark plats or anything else. It is important to keep the territory together.

So the function of the proposed section 6(f) is merely to establish a device whereby all options will be open. When the situation arises, we can explore this. Maybe we need a new form of local government for this particular unit. We have pretended by illegal fiction in our State for the past 12 years that Menominee was a county, but it was never fully organized for county government purposes. We have pretended by general law that all counties consisting of one town only may do certain things when it fact there is only one such county.

Maybe we should stop playing fictitious games, and spell out clearly what the rights and obligations are. I would like to make one comment though on the amendments suggested to this section by Mr. Giese.

He wants to change—by the way, the wording that is now set forth in this proposed section 6(f) was, I believe, endorsed by the Menominee Indian Study Committee, which is an arm of the Wisconsin Legislature.

He proposes to change the last few words from "required by the Menominee Indian tribe, to "required by the people in the territory constituting on the effective date of this act the county of Menominee." I believe the change is unnecessary to the point of overkill. The bill that you are drafting is addressed to the points of the Menominee.

The obligations of the state and local governments in Wisconsin to the citizens of Wisconsin are not affected by your bill.

Mr. MEEDS. I certainly agree with that, and that is why I have been trying throughout these hearings to separate the vestiges of the citizenship that come from ownership of property, and the mere presence of people as different things.

Let me just ask you a specific thing now. Do I understand that you feel the Federal Government could pass legislation which would in effect abrogate the requirements of the Wisconsin constitution for a county referendum to abolish or divide a county of less than 900 square miles?

Dr. THEOBALD. The referendum question.

Mr. MEEDS. Could we override that in your opinion by Federal statute?

Dr. THEOBALD. If the U.S. Supreme Court by reinterpretation of the U.S. Constitution can override these statutes in constitutions in nearly every state on the subject of legislative apportionment, I think the U.S. Congress by the enactment of the law can override——

Mr. MEEDS. Well, that is another thing, isn't it, Mr. Theobald? Isn't that a 14th amendment question?

Dr. THEOBALD. It was a new interpretation.

Mr. MEEDS. Well, are you seriously contending that we could create certain types of county government, or provide by statute at the Federal level that areas of less than 900 square miles can or cannot become counties? If you are, I certainly do not agree. I do not think we have any jurisdiction like that.

Dr. THEOBALD. Mr. Chairman, I do not think you have done it. I do not think Congress has ever done it. Yes, under the language of the U.S. Constitution, I am contending that you can.

Mr. MEEDS. The gentleman from Alaska?

Mr. YOUNG. Mr. Chairman, I have no further questions at this time.

Mr. MEEDS. Thank you very much, Mr. Theobald, for coming forward at this late hour and giving us your expressions. We appreciate it very much.

Incidentally, the Wisconsin State Legislature ought to be commended for its work in this area. It has been very active, and has a continuing interest, as I am sure you are well aware of.

Thank you very much.

The third day of hearings are hereby adjourned. Thank you all for appearing.

[Material for the record follows:]

KESHENA, WIS., *June 26, 1973.*

GENTLEMEN: My name is Mrs. Agnes Dick. I am a Menominee Indian of almost full blood, and I reside on our Menominee Indian Reservation at Keshena, Wisconsin.

I came to Washington as a representative of my Menominee people to register a strong protest against the Froehlich version of the Menominee Restoration Act which has been labeled H. R. 7421. The Froehlich Bill was never approved by our Tribal members, therefore it is not, by any means, acceptable to our Menominee people. We consider the Froehlich Bill as nothing more than an instrument of compromise. We Indians have been compromised for the past 353 years, and we have known nothing else. We have never known the meaning of the word JUSTICE. That is why we are here, to try once again to find some way, or some magic means that will bring us some of that JUSTICE we have heard so much about.

We definitely will not accept any part of the Froehlich compromise Bill H. R. 7421, and that is the wholehearted opinion of our Menominee Tribal members. We will accept nothing else than our own original Bill to Repeal Termination H. R. 14556 which was introduced in the 92d Congress, 2d Session on April 20, 1972 by Mr. Obey, Mr. Meeds, Mr. Kastenmeier, Mr. O'Konski, Mr. Reuss, Mr. Ruppe, and Mr. Thomson, and referred to the Committee on Interior and Insular Affairs.

We demand the Repeal of Termination, for with removal of said Act, all Indian Nations would benefit from such action on the government's part. We also demand a new Treaty with the Federal Government in 1973. Since the Treaty of 1856 was broken, in part only, we must therefore seek a new Treaty. Our Sovereign Menominee Indian Nation, which is still under Treaty with this United States Government, has every legal right to declare war on the Federal government.

In demanding a new Treaty, we state here that we have a legal right to be consulted and to declare our wishes as to the contents to be incorporated into the Treaty. We seek reparations in full of all damages suffered by our Menominee Indian Nation retroactive from the date Termination became law. We want the return of all Menominee Tribal lands which were sold illegally and without the consent of our Tribe. We want a separate school system, our own hospital and dental clinic. We want the return of our public utility system, our telephone system, and our power and light utilities, as this was all sold without the consent of our Tribe. We want our own Tribal government that will be representative of our Menominee people. We want an expansion of our economy, more business opportunities and more created jobs for our people. If this United States Government can spend billions of our dollars to aid defeated nations abroad after a war, we feel that our demands are not out of order.

We want the return of all tax monies paid out by our Menominee people since Termination. We want the protection of our hunting, fishing, and trapping rights restored to our Menominee people and that all outsiders be barred from hunting, fishing, and trapping on any part of our Reservation. And, we demand a full investigation of all officials past and present who have had any part at all in the mismanagement of our Tribal Corporation and our resources.

We want no part of any County or State rule over our Reservation. There was a Feasibility study made at one time to determine whether it would be feasible to retain the County system of government within the restored Reservation system under Federal protection, but the results were never made known to our Menominee people. The study was made by NARF, the Native American Rights Fund.

Gentlemen, we have had it. We want no part of the Froehlich compromise Bill H. R. 7421. We demand the enactment of our original Menominee Termination Repeal Bill H. R. 14556 passed into law. Why is it so difficult for the American Indian to discover the meaning of the word JUSTICE?

I thank you, and may all of you enjoy the rich blessings of our Great Spirit.

MRS. AGNES DICK.

KESHENA, WIS., *May 26, 1973.*

SUBCOMMITTEE ON INDIAN AFFAIRS:

Mr. & Mrs. Leon Hamlet, who are in attendance at the hearing on May 26 would like to be able to insert into the record our hope for the spelling out of proposals which affect land owners in Menominee County. The questions we would ask as non-Indian owners, on the Wolf River, probably are some of the same ones our Indian neighbors also need to ask. We have some ideas pertaining to our own situation which would apply only to one or two others but our request is for answers before legislation is passed.

We are grateful for the privilege of being able to live in this beautiful county and want only to do what is right for the Menominees as well as what is fair for us.

CHARLOTTE HAMLET,
MILWAUKEE, WIS.

May 26, 1973.

CONGRESSMAN LLOYD MEEDS

I, Rita W. Bodoh was a bus driver for School District #8 in the years 1970-1971.

I noted in the testimony of Arnold Gruber, Superintendent of Schools, that *one hour and 10 minutes* was the longest time any one student had to travel to school.

My first pick-up in the morning of students attending Shawano schools was 6:30 AM. The first bell for beginning *classes at the high school rung at 8:05 AM.*

One way travel time for the first child on the bus was one hour and forty-five minutes.

I am submitting this statement to correct the inaccurate statement made by Mr. Gruber.

RITA W. BODOH.

STATEMENT OF M. J. REINARDY, M.D., KESHENA, WISCONSIN

First let me express my appreciation to you and Representative Lujan for giving up part of your vacation time to come up here to Menominee County for these Hearings which mean so much to us all. We truly appreciate your concern.

I'm writing this, as you requested, to submit to your Committee the information I gave to you orally at lunch on Saturday, May 26, 1973. As you will recall, I was most disturbed by the testimony given primarily by Mr. Giese, who allegedly represented the feelings on the non-Menominee lake property owners and who spoke in opposition to the Restoration Act. I am white. I own property on *Legend Lake*, and I am a year-round resident of Menominee County. Mr. Giese's testimony is in direct opposition to what I know to be true. *I have since rechecked with several of the other whites who make their home* in Menominee County and to a person they were both surprised and perhaps somewhat angered that he opposed the Restoration Act. All concur that the *services here are better than* they are in either Shawano or Oconto Counties and in checking the tax rates, ours have been $1.00–$4.00 less/1000.00 assessed value than either of these Counties prior to the Federal Revenue Sharing. Since that time, ours have dropped an additional $5.00/$1000.00. I can think of no service that can legally be provided by the Town or County of Menominee that is not now being provided and provided better and more conscientiously than in either Shawano or Oconto Counties. All one needs to do is ride on any State or County road for a mile or two into either County and note the difference. With your eyes closed you can hear the difference as well as feel it from the very poor condition of these same roads once you leave Menominee County. The difference is even more dramatic in the winter when our roads are plowed 6–24 hours before they are in the surrounding Counties. The inuendo of Mr. Giese that the Menominee would engage in duplicity to over tax the non-Menominee residents is totally unfounded and to be condemned. It can only serve to disillusion the honest and hard-working members of our Town and County Government who have fought so hard to insure that the rights of all would be given equal protection regardless of nationality. I find his allegations repugnant to all sense of justice. The County roads are plowed in order of priority based on the number of people using them. As a result the road going by the lakes is the First County road plowed. Then the Town roads are plowed in order of distance from the Highway Department Shop, and again, the lake people receive extremely fair treatment. During the last snow storm, our roads were cleared by noon the next day. Compare this with the roads on the Stockbridge-Munsee Reservation in Shawano County where two days went by before the roads were cleared so that a patient scheduled to see me could get out. Last summer, a Town road on Moshoquit Lake that serves only non-Menominees and most of these non-residents as well, was paved, in spite of the fact that there are roads in the South Branch area that serve Menominee residents that need the paving far more. This was done in keeping with the policy set forth by the Town and County Board of alternately paving sections of road in areas that serve the non-Menominee, predominantly non-resident populations and the Menominee, full-time resident populations. What could be more generous? I know of no County that would be so generous to a non-resident and therefore non-voting population, particularly since we have no means of benefiting economically from the influx of tourist. Indeed, Mr. Giese owes the people and officials of Menominee County an apology for these inferences.

Secondly, the critics of these services, as stated above, are non-residents and have almost no stake in the future of this County nor of its human community. It seems to me it would be extremely unlikely, that if this County were disbanded, that Shawano or Oconto County would make any efforts to plow our roads so that I could give medical care to the people of Menominee County. There is plenty of justification for this doubt in the obvious cases where we've had to depend on Shawano County for services, e.g., School District #8, which has recently been charged with six counts of non-compliance with the Civil Rights Act of 1964, and where our children, after leaving 5th grade in Keshena or Neopit, upon entering 6th grade in Shawano have to take 3rd grade reading over and where Menominee County children have a 75% drop-out rate in the Shawano High School (50% of those starting as Freshman have dropped out at the start of the Senior Year and 50% of those left don't graduate).

Thirdly, it would be most deflating to a people who have taken great pride in being meticulously honest and open in their governing to the point that it rankles those who are accustomed, because of their race, or socio-economic status, to special privilege. They have demonstrated this ability and good faith in the face of extreme pressures and subtle, condescending snobs. In spite of bad faith on the part of those they've dealt with, they still have shown the faith and courage to expect their adversaries to deal with them in good faith. To in effect punish this virtue, all too rare in our society, by telling them they're unfit to handle their governmental tasks and to accuse them of duplicity is to perpetrate a grave injustice.

Lastly, to disband this County would be truly a step backwards. It would be to destroy the only good thing to have come out of Termination, i.e., an infrastructure of disciplined, conscientious self-government, and to do this at a time when the grass-roots involvement in the political process is really coming into flower. If the Menominees are ever to be allowed to participate fully in the mainstream of American life that we hold as an idealized goal; it would be a disasterous mistake to destroy this beginning.

Once again, I'd like to express my deep appreciation to you and Representative Lujan for giving of your time and consideration to our cause. I'm sure the impression you've left will go a long way to counter act the disillusionment in the political process left by the encounter with the Watkin's Hearings.

STATEMENT OF THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

The League of Women Voters supports the Menominee Restoration Act—HR 7421—because we believe that the responsibility for solving the serious problems now being faced by the Menominee Indian Tribe of Wisconsin is a federal responsibility. Passage of HR 7421 would restore to the Menominee those basic rights and services which they sorely need and which were terminated at their expense and without their full understanding. And, of utmost importance, it would restore their land, so necessary to their survival as the Menominee Indian Tribe of Wisconsin.

President Nixon declared in 1970 that "forced termination" was wrong, adding that its practical effects where the policy had been implemented were harmful. He sent a proposal to Congress to renounce, repudiate and repeal House Concurrent Resolution 108 of the 83rd Congress. Three years have passed since the President's message and such a bill has yet to be passed by both Houses of Congress. Passage of HR 7421 would be a major and necessary step in carrying out the Administration's stated intent of 1970. It would also reinforce the Administration's position that termination is wrong; it would allay the apprehension of many Indians who receive termination as a real and imminent threat.

We urge the Subcommittee to bear in mind that while the Menominee seek to re-establish their trust relationship with the federal government, they do not want to return to the restrictive paternalistic policies of the past. It is important, therefore, that the Restoration Act allocate maximum control for planning and development to the Menominee. We ask the Subcommittee to amend HR 7421 to restore the reservation to trust status, and to do so effective upon enactment, rather than after a two-year delay.

Why does the League of Women Voters—a non-Indian organization—have any interest in the Restoration Act before this Subcommittee?

For years, the League has supported federal policies and programs that would enable *all* Americans to gain equal access to housing, employment and quality education, and that would help equip Americans to disentangle themselves from the web of poverty and discrimination. Among the minority groups thus entangled are the American Indians whose problems have been largely ignored. Yet, the First Americans are an important, vital segment of American society. No history of this country's development would be complete without attention to their basic needs and development of the means to resolve them. At the 30th National League Convention held in May, 1972, the delegate body, therefore, added a new component to our national human resources position which states: "Support of equal rights for all regardless of race or sex, *with recognition of the special needs of American Indians;* action to combat poverty and discrimination and to provide equal access to employment, housing, and quality education."

League members recognize that the needs and concerns of American Indians are unique and deserve special attention. Covenants between Indian nations and the United States and subsequent statutes, Executive Orders and Acts of Congress have created a special trust relationship for Native Americans, leaving the federally recognized tribes primarily dependent on the federal government for community services. This unique status means that, often, Indian tribes have been untouched by social and economic benefits legislated in recent years. The services and assistance rendered by the Bureau of Indian Affairs and Indian Health Service do provide reservation Indians with some basic life support, yet the Indians are still plagued by the problems of inadequate housing, ominous unemployment rates and an educational system which is often hostile. All of these well-documented symptoms of deprivation, however, are overshadowed by the Native Americans' tenacious and lengthy fight to hold onto those philosophies, beliefs and attitudes that make them distinctly Indian.

Many problems which beset American Indians are due largely to shifting national policies. On the one hand, the federal government affirmed Indian tribal sovereignty and the pre-existing right of tribes to govern their internal affairs. Then on the other hand, a policy has evolved which has forced many Indians to move into the American mainstream with scant preparation. This topsy-turvy policy has been effected both through legislation and such policies as BIA's Relocation Program. In general the confused policies grew out of the belief of a relatively few individuals that Indians should not be the concern of the federal government, but rather that they should stand on their own feet and compete with the rest of Americans.

It was largely out of the belief that a final solution could be found for the Indian problem that the legislative base for the termination policy was established. In 1953 Congress passed House Concurrent Resolution 108, which called for the end of federal supervision over Indian tribes, and Public Law 280, which transferred the federal jurisdiction over law and order on certain Indian reservations to individual states.

Termination was brought to a partial halt in September 1958, but only after 6 tribes had their federal trust relationship abolished, including the well-known Menominee and Klamath Indian Tribes. Where implemented, the act and policy proved disastrous. Even today, the mere mention of the word termination inhibits some Indians from participating in activities such as running for a school board position, because they do not want to get their tribe in trouble; they do not want to be terminated. The threat of termination is an ever-present weapon in the hands of people who would like to keep American Indians in a status of less-than-full citizenship.

How do all of these general problems Indians have relate to the Menominee and their campaign to have their trust status restored?

First, termination is the name of the policy and practice which cut the Menominee off from a formerly thriving way of life. The government sought to abolish the historic trust relationship between the federal government and these Indian people, to put an end to the tax-exempt status of Indian lands, to relieve itself of the responsibility for the economic and social well-being of the Menominee Indians.

Second, the Menominee Indian Tribe of Wisconsin has become a symbol: a symbol of how Indians are unwitting victims of inconsistent and conflicting national policies in Indian affairs; a symbol of the determination and perseverance American Indians have to protect their own cultures and lifestyles, while at the same time benefiting from the fruits of life available in the United States.

Termination for the Menominee Tribe was precipitous. In 1953, the tribe requested that $5 million of the $7.6 million judgment they had won as a result of a U.S. Court of Claims case against the BIA for mismanagement of their forest resources be distributed in per capita payments to individual Menominee. Congress reacted and moved to make payment of that money conditional on termination of their trust relationship.

This decision to terminate the Menominee in 1954 was not based on a realistic appraisal of their chances to survive and compete with white, mainstream Americans, but on a superficial comparison of their "paper prosperity" with other, less prosperous tribes.

Most committee members are aware of the relative prosperity of the Menominee prior to the 1954 Termination Act: they were able to pay for most of their community services and had their own hospital. The surrounding timberland was their sustainer, providing employment opportunities and income to the Menominee. There was fishing in the Wolf River and in the beautiful lake waters.

Following termination, however, there was a rapid descent from a once stable and progressive Menominee economy to a state of impoverishment. It became necessary, from time to time, for Congress to make stop-gap appropriations to curb the tribal plunge into total decline.

Statistics can point out the dollars and cents burden the Menominee have had to shoulder in trying to raise revenue to pay for taxes when they were incorporated as Menominee County. Studies are full of the accounts of individual Menominee having to sell their precious land in order to cope with tax and bond obligations. But statistics cannot convey to us the day-to-day problems individual Menominee have had to cope with because there was no choice.

In real life terms, termination for the Menominee has meant that the tribal treasury has long since been depleted; they now must pay for water and utilities, the lumbering operation teeters on insolvency, the hospital is closed and the Menominee have been without a doctor or dentist for 11 years. Their children have to attend schools in neighboring Shawano County, which presents another set of problems. The high birth rate, coupled with a lack of employment opportunities, has forced many Menominee to receive welfare assistance. On top of it all, the Menominee point out in FREEDOM WITH RESERVATION that since termination they have had "less self-determination and control over their own affairs and must cope with more outsiders having decision-making power over them than was ever the case as a reservation tribe under Indian Bureau Administration." *

Despite all these debilitating handicaps, the Menominee have conducted a vigorous campaign these past three years to get legislation introduced in Congress that would repeal the 1954 Menominee Termination Act, restore to the Menominee federally-funded community services, funding, technical assistance and other forms of aid because of their status as American Indians.

The League of Women Voters urges quick committee action on the MENOMINEE RESTORATION ACT so that this session of the 93rd Congress will have time to pass HR 7421. Failure to pass this act would have disastrous effects on already strained relations between the United States and the First Americans. We commend the Subcommittee for holding hearings regarding the Menominee Restoration Act and would also like to take this opportunity to ask members of the Subcommittee and full Interior Committee to hold oversight hearings to discuss unresolved treaty rights questions and other pertinent matters which stand in the way of a meaningful working relationship between the federal government and Indian citizens.

(Whereupon, at 6:23 o'clock p.m., the Committee adjourned.)

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*Deborah Shames, ed., *Freedom with Reservation: The Menominee Struggle to Save Their Land and People* (Madison, Wisconsin, 1972), p. 11

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